

Lessons learned from UNHCR's involvement in the Guatemala refugee repatriation and reintegration programme (1987-1999)

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Preface

In early 1998 and in view of operational phase-down and eventual closure of the Office, UNHCR Guatemala began planning a series of lessons learned exercises. UNHCR considered that its unique experience in the repatriation of Guatemalan refugees from Mexico constituted an important resource for future operations, particularly in light of the highly organised and political nature of the collective return process, as well as the innovative role which UNHCR played in areas such as negotiation over refugee lands, socio-economic reintegration, and personal documentation.

The general objective of the exercise was to systematise and analyse lessons learned throughout the repatriation and reintegration process, with a view to identifying "best practices" and successful models that could be applied to other UNHCR repatriations, as well as shortcomings and limitations which should be avoided in the future. A secondary objective of the exercise was to identify "gaps" that UNHCR has been unable to meet, in order to promote appropriate linkages with long-term development actors present in the areas of return. Finally, it was hoped that a series of inter-institutional lessons learned exercises would serve a public information purpose in disseminating information about UNHCR's work in Guatemala, highlighting the importance of the international community's contribution to the achievement of a lasting peace through the donors' support for repatriation process.

The various lessons learned exercises created the opportunity to reflect on the successes and shortcomings of the repatriation process operation not only among UNHCR staff, but also among a variety of national and international institutions. This final report synthesises and builds on the results of the lessons learned field exercises, which were virtually all co-sponsored with other institutions, and include:

1. Internal UNHCR Guatemala Lessons Learned Workshop with the participation of all professional and field staff.
2. Mediating Group/GRICAR Evaluation Workshop
3. Forum on Lessons Learned in UNHCR's Work with Refugee/Returnee Women's Organisations
4. Permanent Commissions -CCPP- Workshops on the Return Process involving 35 returnee communities
5. Workshop on Reintegration and QIPs (UNHCR/CECI)
6. Workshop on the Documentation of the Uprooted Population (UNHCR/CTEAR/EU)
7. Workshop on Linkage Strategy and Sustainable Development in Returnee Areas, (UNHCR/UNDP/CEAR/CTEAR).

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The opinions expressed in this report do not necessarily represent the opinions of UNHCR

The task of analysing lessons learned by UNHCR in Guatemala after 12 years of intervention is a challenging one. There is a wealth of information available but the complexity and ever-changing nature of the situation as the refugees returned, eludes simplistic analysis.

There is an even bigger challenge in making this information accessible and of use in UNHCR's difficult work. Surely the nature of the refugee situation and return process in Guatemala was atypical in so many ways that practical lessons are difficult to discover.

But the lessons are there: whether it be the benefits of ceding partial control over a repatriation process so that the refugees themselves have a voice in their destiny or the example of fortitude that the Guatemalan women put forth with full and unique support from UNHCR.

The standards of assistance and support to the Guatemalans were high compared to the rest of the world's refugees (thanks to ongoing and specific donor support) but the conditions offered the Guatemalans should be a goal to strive for in relation to all refugees and returnees when set against the standards of minimal human dignity.

Above and beyond the lessons learned, however, here, among the Guatemalan refugees and returnees, there is an important story to be told. The story is about the struggle of a people overcoming their difficult historical legacy but it is intimately intertwined with the in-depth experience in repatriation and reintegration gained by UNHCR. All the UNHCR colleagues who had the privilege to work with this population were marked positively by the experience and have taken some part of their learning to other parts of the world.

The author of this report spent seven years with UNHCR-Guatemala (as a UNV, JPO and finally as a part-time consultant). This account is meant to be as balanced and complete as possible as well as to clear up some consistent misunderstandings about UNHCR's work in Guatemala.

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1. Context and background

a. The Central America crisis and Guatemalan refugees in Mexico

In the 1970's, Guatemala, along with its Central American neighbours El Salvador and Nicaragua, was immersed in social and political upheaval due to historic and profound inequalities. State violence was a frequent response to peaceful protest thus further fuelling insurgency movements. Beginning in 1980, a brutal counter-insurgency war waged under successive military governments in Guatemala, caused first individual and then massive displacements. While 20% of the country's total population was estimated to have been displaced at least temporarily (one and a half million people), of these, between 150,000 and 200,000 crossed an international border, mostly to Mexico. Here, UNHCR eventually registered and assisted some 46,000 persons dispersed in makeshift camps along the Guatemalan-Mexican border in rural and, in some cases, jungle regions in the Mexican state of Chiapas. More than 85% of the registered refugees were from approximately eight different ethnic-linguistic Mayan groups, comprising part of the indigenous population of Guatemala (which includes a total of 22 language groups). The refugee population was composed mainly of family groups (though many families were split up in flight) with an equal number of men and women.

UNHCR began to negotiate its presence in Mexico when Mexican migration officials deported the first groups of refugees in 1981, and when refugee flows started to overwhelm local resources in early 1982. UNHCR opened a Mexico City office in March 1982 with the signing of an *Accord de Siege* in October of that same year. UNHCR established a presence in Comitán, Chiapas, at the same time. Significant refugee flows continued into 1983. Many groups of refugees had been in hiding in the Guatemalan jungle for months and arrived in Mexico decimated and only after their food supplies had run out. Supplies to some of the large and isolated camps in the Chiapas jungle were difficult to ensure reliably and the Mexican government documented more than 60 incidents of Guatemalan army incursions into Mexican territory including some where refugees were killed.

Under a complex regional-political situation in 1984, the Mexican government undertook a refugee relocation operation to two states on the Yucatan peninsula: Campeche and Quintana Roo. Most refugees were relocated against their will. Others fled within Chiapas or repatriated spontaneously. UNHCR was not granted open access to the relocation process. After approximately 18,500 persons had been relocated outside of Chiapas and others had spontaneously moved inland, the Mexican government halted the relocation. More than 25,000 refugees remained in Chiapas.

As of 1984, the Mexican government with international funding channelled by UNHCR made considerable effort to create model settlements in Campeche and Quintana Roo. The security situation in Chiapas improved. As food supplies became stable, the highly organised refugee population began to benefit from improved basic services including schools staffed by education promoters from their own communities and from productive and income-generating projects. In the mid-1980s refugees began to improve communication links between camps.

They were also contacted clandestinely by representatives of guerrilla organisations in Guatemala who saw the refugees as natural allies and potential recruits given their experiences with state and military repression. This relationship would influence but not over-determine the political stance that refugees would later assume towards the Guatemalan government.

- The movement for organised refugee return

In 1985, the Guatemalan Constitution was reformed and elections took place for the first civilian President since 1969. When the new government assumed office in 1986, one of its concerns was attracting the refugees home since refugee return was deemed an important political barometer for the international community of the human rights situation. UNHCR entered into a tripartite agreement with the corresponding Mexican and Guatemala government agencies (COMAR and CEAR), to aid voluntary repatriation. Nevertheless, the majority of refugees were fearful of returning and many knew their land was occupied or in war zones. Thus a group of male leaders began to organise as many refugees as possible to demand a collective return with basic conditions guaranteed by the Guatemalan Government with the international community as witnesses and guarantors. The organised expression of this movement was the Comisiones Permanentes (CCPP) or "Permanent Commissions", formed in late 1987 and composed of refugee leaders who would negotiate the terms of their repatriation directly with their own government.

Before bearing fruit, this movement suffered many setbacks and problems in establishing its legitimacy. Eventually, though, the CCPP became the representative body for an important majority of refugees and as early as 1989, UNHCR gave them logistical and other support in their quest to create the conditions for large-scale returns. The Guatemalan Government initially chose to ignore the CCPP and encouraged individual repatriations in order to offset the influence of the collective return movement. However, stories filtered back to the refugee camps of individual repatriates unable to recover their land, or conscripted into civilian militias and served to discourage return with the government-backed repatriation program. Consequently, the ranks of those backing the CCPP "collective and organised" return platform increased and the government eventually agreed to a direct dialogue.

When the first talks between the refugees and the government to reach a direct agreement on the CCPP's demands did not prosper, UNHCR devised a Letter of Understanding which was signed by the Guatemalan President during a visit of the High Commissioner, Sadako Ogata, in November 1991. The letter recognised in generous terms the efforts made by the Guatemalan Government for repatriates to date and then addressed some of the most important concerns being negotiated by the refugees. The letter also outlined security guarantees for UNHCR itself as well as other agencies and NGOs. The Letter of Understanding became the single most important document in backing UNHCR's role in Guatemala with returned Guatemalan citizens because it constituted a formal governmental commitment to recognising and facilitating UNHCR's presence and "legitimate interest" with returnees.

In October 1992, after protracted negotiations mediated by UNHCR and other national and international entities, the October 8th Accords were signed between the CCPP and the Guatemalan government which outlined certain basic guarantees and other novel advantages-- most notably access to land for landless families (see box below). By June 1992 and in anticipation of the refugee-government agreement and the projected return of 30,000 refugees in two years, UNHCR had established four field offices in the Guatemalan countryside and had expanded its central office resulting in a total of

approximately 35 staff members for the entire Guatemalan operation by the end of 1992.

By this time, Guatemalan women refugee participation was becoming more visible. Initially confined to carrying out artisan and other small-scale projects, women began to develop networks within and between refugee camps. In 1990, the first refugee women's organisation, Mamá Maquín, linking women in Chiapas, Quintana Roo and Campeche was formed. Involved in different outreach and training activities, a majority of women refugees began to change their roles at home and in the community. An important priority for Mamá Maquín and other organisations of women refugees that formed later was to organise around their common objective of returning to Guatemala and negotiating adequate conditions for them and their families.

In January of 1993, the first large-scale, organised return took place comprising a three-week caravan of 2,500 persons with an airlift component, as well as partially by foot over arduous terrain. Every decision along the way, logistical and otherwise, became a political debate between the returnees and the government. As in the negotiations over the October 8th Accords themselves, a confrontational situation emerged between the two negotiating parties wherein a concession by one became a political victory for the other. UNHCR inevitably was caught in the middle; the government often considered it too much of a refugee advocate and therefore politicised, at the same time that the refugees and many of their supporters thought that UNHCR too often backed the government position.

Throughout much of the repatriation/return operation, UNHCR facilitated the voluntary return of those refugees who expressed interest without actively promoting repatriation in the absence of a finalised peace process (not signed until late 1996). As will be seen, the constantly changing and often conflictive situation in Guatemala shaped the kinds of protection activities UNHCR undertook, prolonged the entire process and thus extended UNHCR presence far beyond what was initially anticipated.

b. International support and funding for return

The Guatemalan return programme as financed by UNHCR, and support to the Guatemalan refugees and returnees in general, may be considered an unprecedented case of international generosity when compared to *per capita* spending in other return operations. In the context of the 1980's cold war approach to Central American politics, many international donors were interested in counteracting U.S. policy in the region seen as prolonging armed conflict and social confrontation. On the other hand, the refugees and displaced in the region were seen as the hapless victims whose organisational models (especially in the case of Guatemala and El Salvador) might well serve as important examples for post conflict reconstruction.

Many countries and some private donors supported the UNHCR repatriation operation in Mexico and Guatemala from 1992 to 1999: most consistent and generous were Sweden and Norway, the European Commission, the U.S., Japan, and Canada (see annex 2). As a way of explaining the continued support by these donors above and beyond a minimal programme to bring about repatriation as an end in and of itself, one analysis concludes: "*Few donors believed they invested their money [solely] in an individualised humanitarian operation. The return has been an input to a political process that to some extent contributed to pave the way for political changes in Guatemala.*"

The contributions of the refugee return process to the Guatemalan Peace Process *

Government-refugee negotiations provides lessons for peace process

The process of Guatemalan refugees organising and negotiating and the Guatemalan peace process were simultaneous and of mutual influence. While the overall context of peace negotiations stimulated the specific negotiations with refugees, the refugee negotiations were a partial blueprint for the way the peace talks took place and contributed concretely to the content of the eventual agreements. For example, the partial peace accord relative to displaced populations adapted the previous experiences with refugees in regard to government land acquisition programmes, documentation legislation and efforts addressing the problem of land mines and explosive artefacts.

Both negotiating forums (refugees and governmental repatriation agency on the one hand and guerrilla and government on the other) were similar in that two declared opponents were sitting down to make agreements, with international/UN mediation and with the stated mutual goal of reaching reconciliation. Furthermore, specific formulas used in the experience with refugees (mixed commissions with governmental and civil sector participants alongside external observers/facilitators) were incorporated into the different partial agreements of the government-insurgency negotiations.

The returnees didn't wait for peace, they helped forge it

Contrary to various other refugee scenarios in the world where the beginning of refugee return or its acceleration depends on a negotiated peace settlement, in Guatemala "[i]ronically, the role of the refugees in paving the way for the global peace process meant that by the time the final peace agreement was signed, most of the refugees determined to arrive home had already returned or were actively negotiating their return independent of the peace process." (**) By December 1996, when the final peace agreement was signed, 78% of total returnees (calculated until June 1999) were already in Guatemala. The fact that the majority had returned to conflictive regions and stimulated the demilitarisation of these areas, pre-empted a formal cease-fire that followed.

Uncovering the memory and trauma of war victims

Another positive contribution of the returning refugees includes the capability to speak out. Unlike most of Guatemala's population that, after years of violence and militarism, tended to cover-up or under play their real experiences with war and repression, the returning refugees had been in an environment where free expression had flourished. When the Guatemalan Peace Accords' ordained "Commission for Historical Clarification" (a post-war "truth" commission) began to gather testimony, the returnees had already created a precedent by their forthright manner in recounting their experiences. Furthermore, much of the urban population, including government officials, learned for the first time of the extent of the war's destruction in the countryside through contact with returnees and press coverage of their stories.

New models: education in rural areas

Returning refugees also contributed a model for training community members as educational promoters to replace the need for outsiders as primary school teachers. This model, developed in conjunction with returnee representatives, was eventually discussed with the Ministry of Education and other relevant institutions including UNESCO, and was adapted as a pilot project for policy changes at a national level under the co-ordination of a commission created by the Peace Accords.

(*) Relevant documents citing various other factors are: Instancia Mediadora/GRICAR (1999) and Colom Caballeros (1997).

(**) Spence, et. al. 1998

- CIREFCA: A regional conference for regional solutions

The initial framework for support to UNHCR activities with returnees as a whole was the May 1989 International Conference on Central American Refugees (CIREFCA), created by the UN General Assembly and organised by UNHCR and UNDP. CIREFCA is believed to have opened the door to the initial solutions for Central American refugees although it was deemed less successful in generating concrete solutions and funding for the internally displaced who were its other anticipated beneficiaries.

Although CIREFCA was institutionalised via a standing follow-up committee and a UNDP-UNHCR joint support unit until 1994, it was never meant to be an institution, permanent or otherwise. Rather, *"[I]t is, above all, an ongoing process, an evolving mechanism for growing co-ordination. It is also an experiment in a new kind of international body, combining, for the first time, the role of governments, the resources and scope of action of international organisations, and the initiative and experience of NGOs around a single issue"*

Among the principal accomplishments of CIREFCA is the fact that it reflected and channelled an ongoing regional peace process while introducing new elements specifically to benefit the plight of displaced populations in the region which were estimated at two million people at the time. Initially considered by regional governments as a forum where only they and international organisations would design and implement solutions, regional and international NGOs were given a voice in the initial conference and displaced populations an incipient role in ensuing meetings. This quadripartite participation was no minor accomplishment in the context of the Central American governments of the 1980's, which in many cases were antagonistic towards both NGOs and the refugees/displaced, particularly if the latter were organised.

- The seeds for incorporating a gender focus: FoReFem

Another innovative by-product of CIREFCA was a subsequent conference that planted the seeds for increased sensitivity to the particular situation of refugee, displaced and returnee women. As such, it would bolster UNHCR's latter attempts to integrate gender focus in its own programmes and that of counterpart institutions. The conference or forum, known as FoReFem, was held in Guatemala in February of 1992. It was primarily UNHCR's female staff in conjunction with women from UNDP and both local and international NGOs with a shared gender perspective that created the event. One of the recommendations

was that UNHCR, UNDP and NGOs undertake training in gender issues to better prepare themselves for the work ahead.

Furthermore, FoReFem gave a visible role for the first time to displaced women from the region including Guatemalan women refugees who were present and gave their testimony. *"Conference participants learned a great deal about the situation of refugee women as they listened, most for the first time, [to] the women describe...their lives and their demands for change. As a result, the experience of refugee women was recognised and affirmed in a public way during this event..."*

c. The Guatemalan peace process

The regional "Esquipulas II" agreements signed by Central American presidents in August 1987, laid the specific groundwork for eventual direct negotiations between the Guatemalan insurgents - the Guatemalan National Revolutionary Unity (URNG) - and the Guatemalan Government initiated in what were known as the Oslo Accords of March 1990. The peace talks gained momentum in 1994 when a number of partial accords based on a pre-established agenda were signed. When this agenda was completed, a final agreement was signed in December 1996.

Many detailed analyses of the Guatemala Peace Accords regard them as far-reaching in scope with the potential to make profound and structural changes in some aspects of Guatemala, build involvement by civil society and benefit the population at large. Nevertheless, there is also consensus that many of the broad commitments are not backed by specific implementing mechanisms and are not likely to be fully realised.

Between the 1987 Esquipulas agreement (which emphasised the regional displaced and refugees) and 1994, when the Guatemala peace talks began to make significant advances, the negotiations undertaken by Guatemalan refugees were important in influencing and promoting the overall peace process (see box). In fact, the partial agreement signed between the Guatemalan Government and the URNG in 1994, the "Accord for the Resettlement of the Population Displaced by the Armed Conflict," uses the October 8th Accords as a blueprint and precedent for a substantial part of its content.

d. UNHCR's presence and programme in Guatemala: an overview

UNHCR's formal presence in Guatemala dated from the opening of an Office of the *Chargé de Mission* (OCM) in April of 1987 to both assist refugees in Guatemala (mostly from Nicaragua and El Salvador) and to receive returnees from Mexico and other countries. The same year, UNHCR posted one staff person in Huehuetenango near the main border crossing from Mexico. UNHCR and government repatriations took place on an *ad-hoc* schedule and repatriates received a basic assistance package and 12 months food aid (later scaled back to 9 months) provided by the World Food Programme (WFP).

Although the specific contents of the assistance package varied over the years, the components of agricultural tools and inputs, housing materials and tools, food aid and a cash grant were standard for all repatriates (regardless of whether they arrived individually or in the collective groups which began in 1993). Efforts to accompany the repatriates or, in some cases, to prepare destination sites, were sporadic in the early years due to lack of staff and difficult security conditions in conflict areas. As a consequence, security problems resulted for some repatriates, such as the discrimination and harassment of eight families during 1987 in a village in north-eastern Huehuetenango.

Early on UNHCR also initiated a programme component to provide all repatriates with the identity documents used by Guatemalan nationals. The bureaucratic and complex procedures required to recover and/or replace these documents case by case remained complex throughout UNHCR's presence in Guatemala and this was chiefly manifested in the high cost per beneficiary. Nevertheless, documentation efforts were very successful, enabling returnees to rapidly exercise their civil and political rights. Furthermore, the experience UNHCR gained in obtaining returnee documentation was used in advocating changes in national legislation. New laws in turn streamlined documentation procedures leading eventually to a national-level campaign to promote personal documentation for all Guatemalans.

Developed initially from the model applied by UNHCR in Nicaragua, the office initiated Quick Impact Projects (QIPs) in 1993 which eventually reached 499 communities benefiting some 286,000 persons with one or more of the 364 projects implemented (including regional projects covering several communities). The overall expenditure was 10.7 million U.S. dollars from 1993 until the programme's closure in 1999.

Especially since 1991, UNHCR was involved in direct mediation between refugee groups and the Guatemalan government as part of a multi-institutional body. This formal role continued into 1998 and was complemented by other mediation activities around specific cases (often on a community level) or two-party conflicts involving returnees and the government, refugees and other Guatemalan communities and even returnees versus other returnees. Although there is no definitive conclusion as to whether many solutions that were eased by UNHCR intervention would or would not have been found otherwise, there is universal acknowledgement that UNHCR's credibility and moral authority were valued and also reinforced the activities of other, particularly Guatemalan, institutions.

e. Closure of a lengthy return process

After three years, the collective return process reached a peak in 1995, although return movements continued until 1999 (see table 1). Events in 1995 made many refugees delay their return. Firstly, in that year's presidential election campaign one of the two final contenders represented a political party created by the military general (Gen. Efraín Ríos Montt) under whose *de facto* rule in 1982-1983 many of the refugees had fled. Refugees felt that the near success of the general in the 1995 elections, meant that the violence that had driven them away could be repeated. Secondly, in an extraordinary and terrible incident, a military patrol opened fire on returnees protesting army presence in their community and eleven men, women and children were killed in October 1995. Thirdly, the Mexican Government declared that local integration would be made available for Guatemalan refugees through a naturalisation process initiated in December of 1995. Thereafter, UNHCR would refer to the simultaneous "two track" approach: facilitating repatriation with increasingly proactive measures while preparing for the eventual integration of those choosing not to return.

In retrospect, it is clear that many refugees who had been willing to return began to rethink their options after these events in 1995. As the Mexican Government, after many fits and starts, began to make good on its offer to integrate those refugees who wished to stay, the refugees who were previously ambivalent about returning decided to take a wait-and-see attitude as to how the security and land-access situation played out in Guatemala and what opportunities (land and naturalisation) might be made available in Mexico. The CCPP, and other organisations recruiting refugees for each return group, found themselves with high dropout rates at the last moment in each return. This discredited the refugee

organisations vis-à-vis the Guatemalan Government which in turn slowed down its purchase of land for landless groups arguing that some land already purchased was not populated to full capacity. With the delays in procuring land, more refugees in Mexico dropped out of the negotiating groups, either to stay in Mexico or to repatriate individually. The diminished numbers fuelled the government's determination to once again slow down land acquisition except where 100% occupancy was anticipated. A vicious circle of delays had begun.

By late 1997 the Guatemalan Government began to insist that the attention paid to returnees, particularly the option of land acquisition under extremely favourable conditions, would not be offered forever despite the open-ended nature of the October 8th Agreements. The refugee organisations (the CCPP and two more groups that had formed later) negotiated the inclusion in the land purchase programme of all remaining groups organised to return and the government agreed to accommodate these groups as long as new groups were not added to the list and the refugees respected a December 1998 deadline for all return movements.

Once again, the total number of refugees who returned fell short of the anticipated figure. The single overriding factor for refugees in this last phase seemed to be the choice between work opportunities with which they were familiar in Mexico with access to adequate basic services (water, health, education, transport) as opposed to uncertainty in all these areas for returnees. By 1999 it was estimated that some 22,000 Guatemalan refugees (slightly more than half of them dual-nationals born in the refugee camps) would opt to stay, although without a doubt, refugees will continue to trickle back to Guatemala with or without assistance for years to come.

The last assisted collective return movement arrived in Guatemala in April 1999. Furthermore, UNHCR gave an extra assistance package to repatriate families independent of collective groups during the first six months of 1999. This served as an incentive for families who were decided about returning but still postponing their movement, to repatriate sooner rather than later. UNHCR closed the last of its five field offices in June 1999 and reduced its presence to a minimum by late 1999.

- Some general conclusions

Formal agreements with the government of the country of origin proved fundamental for UNHCR operations and permitted UNHCR to open the way for other institutions to work with returnees.

In the case of Guatemala, the promotion of a regional solution for refugees through a highly visible international conference (CIREFCA) created positive pressure on the government to offer more favourable conditions for returnees.

The fact that UNHCR gave direct support for refugees to organise and directly participate in tripartite or other relevant discussions concerning their future helped guarantee that solutions were acceptable and therefore durable. UNHCR made a significant contribution by permitting visits by refugees to the country of origin to negotiate return conditions with the government and identify settlement sites.

As a corollary to the above, where refugees' participation is fomented, but refugees are represented by men, refugee women need special support to directly express their needs alongside male leaders. This normally would have to be preceded by support for women to meet among themselves and generate

consensus as well as preparing some women to develop communication skills.

2. Protection: mediation, documentation and monitoring basic human rights

a. A fragile and changing environment for protection activities

From the outset, UNHCR-Guatemala operated in a political context considered a minefield of potential difficulties by both UNHCR and outside observers to the programme. As the office opened in 1987 the first civilian government in many years was precariously and only partially establishing norms beyond military rule. During the following 12 years of operation, three more presidential administrations were elected, but as no political party was re-elected, UNHCR had to contend with constantly changing policies and the high turnover of government personnel. Human rights abuses linked to state security forces occurred throughout most of this period, several military coups were attempted and one government ended prematurely (in 1993) when the president unsuccessfully attempted to usurp congressional and judicial powers.

In the countryside, refugee return areas coincided with conflict regions which were heavily militarised in some cases and/or left in the hands of local strongmen who acted as proxies for the army. Initially, returning refugees were often harassed, or were forced to participate in non-voluntary civilian militias and in general pressured to keep their opinions to themselves.

UNHCR presence in Guatemala spanned three main periods, identified in retrospect through a team discussion evaluating protection issues. The first period (1987-1992) may be termed "return under conflict without constitutional guarantees" and was characterised by militarisation in the countryside and limitations on returnees' civil rights in general. The second period (1993-1996) was a transitional period wherein more legal and other protection instruments were in place and yet returnees still faced different kinds of discrimination and difficulties. The third period (1997-1999), after the signing of the peace agreements, saw new kinds of difficulties characteristic of post-conflict societies including violence within returnee communities caused by political differences. Accordingly, at each stage, UNHCR was able to promote different kinds of solutions and respond less or more to the needs of the returnees. The following discussion focuses on the second and third periods referred to, which coincided with the onset of UNHCR's expanded presence in Guatemala in 1992.

Activities broadly defined as part of UNHCR's protection mandate in Guatemala can be grouped into three main categories:

1. use of mediation and/or good offices to ease conflicts and differences between returnees and the government or returnees and their neighbours in part as a strategy of prevention against future displacements;
2. promotion of the exercise of other basic civil rights through personal and land documentation;
3. prevention of human rights violations, monitoring of human rights cases and subsequent follow-up.

b. Mediation experiences

UNHCR intervention/experience occurred on three levels:

Firstly, UNHCR was most frequently involved in negotiating between refugees/returnees and government entities, including the army. Although

UNHCR often was involved bilaterally as an informal mediator, especially over incidents occurring in the communities or *en route* from Mexico, its formal mediator role was as part of a formal Mediating Group with other actors (detailed below). Not only did the Mediating Group negotiation process generate the October 8th Accords that permitted large-scale collective movements, it also resulted in numerous minor agreements regarding different return movements, land problems and overall difficulties in the return process.

The most frequent issues necessitating mediation between the refugees and respective state authorities were:

- Unsolicited army presence in returnee communities (permanent or transitory);
- Land recovery by refugees or, alternatively, fair compensation for land not recovered;
- Problems arising from the complex process of identifying new land for settlement and the negotiation of land acquisition with the government;
- Mechanisms for determining operational matters for collective returns;
- Land tenure security for returnees.

UNHCR also offered its good offices assisting other co-ordination bodies between the refugee/returnee organisations and the government (for example, the Technical Commission for the Implementation of the Accord for the Resettlement of Population Displaced by the Armed Conflict--CTEAR).

Secondly, UNHCR as part of the Mediating Group and other ad hoc groupings was involved in mediating problems between returning refugees and hosting or neighbouring communities (of which some were repatriate communities). The conflicts were mostly focused on disputes over the land or resources, sometimes with ideological and political overtones to the dispute.

Thirdly, most recently (1995 to 1999), UNHCR was called upon to aid other organisations in mediating in conflicts between members of the same community (often returnees versus returnees) where political and strategic differences have erupted in often violent power struggles.

Some characteristics of the majority of such cases where UNHCR intervened include the fact that UNHCR often chose not to stand alone as a mediator. For the most part, it was considered more strategic to work alongside other institutions (normally representatives of the Catholic Church, the Human Rights Ombudsman's office and other international institutions, including the UN Verification Mission--MINUGUA). UNHCR also assisted government institutions as they negotiated between two communities or community groups. In the same sense, UNHCR was often a "behind-the-scenes" facilitator instead of a formal mediator or moderator in that a UNHCR staff person would be present as an observer but limited interventions to facilitating solutions away from the negotiating table in preparation for formal agreements and/or aiding the entities formally guiding the negotiation.

The resulting successful experiences where UNHCR most contributed were often a hybrid between the formal negotiating styles most commonly used in the Guatemalan context and other negotiating techniques introduced by the outside actors (including UNHCR). One result was an indirect form of capacity building, as a collateral but crucial by-product of "accompanying" the national (and permanent actors) involved.

c. Joint mediation efforts between international and national counterparts

In 1990, refugee representatives of the CCPP requested UNHCR-Guatemala to participate in a "Mediation Group" (Instancia Mediadora) along with three Guatemalan entities -- the Catholic Church through its Bishops' conference, the newly created Human Rights Ombudsman's office and a human rights organisation formed by Guatemalans in exile. Shortly after, an international support group (known as "GRICAR") made up of four embassy representatives (Sweden, Canada, Mexico and France) and one international NGO (ICVA), was created to help the "Mediation Group" in its efforts. A sixth member of GRICAR, the World Council of Churches, was eventually added.

The work of this Mediation Group and the international support group (herein referred together as IM/GRICAR for their Spanish acronyms) was deemed unique because of the combination of national and international entities involved. The undisputed credibility of some members (for example, a Catholic Bishop) or the respect engendered by their presence (for example, embassy representatives) were key to initial breakthroughs in getting certain actors to sit down at the negotiating table. In general, meetings with both parties were the norm but sometimes 'pendulum' or bilateral meetings with each party were necessary to generate agreement.

Close co-ordination and co-operation with the Mexican government also proved crucial to the success of many aspects of the return process. Routine tripartite meetings (31 total over 12 years) involving the relevant institutions from the Mexican and Guatemalan governments and UNHCR from both sides of the border became a periodic opportunity through which the Mexican government exerted political pressure to unblock bottlenecks created on the Guatemalan side of the operation. After 1992, refugee organisations were frequently invited to participate in some sessions of the tripartite meetings. Given other bilateral issues of importance between the two bordering countries (such as trade relations, migration, border security etc.), the refugee issue was seen as one in which Guatemala would have to appease Mexico as much as possible in order to gain co-operation in other areas. The Mexican embassy in Guatemala also remained an observer to the refugee-government negotiation process through its membership in GRICAR.

Lessons learned: mediation

- UNHCR made a special contribution through its specific knowledge, not always in terms of UNHCR's traditional expertise, but as individuals directly involved with the population in question (including direct knowledge of the geographical areas and their complexity and direct access to updated information via field offices and Mexican Sub Offices). Therefore, continuity and institutional memory among staff was a critical element.
- UNHCR and the other institutions involved in joint mediation efforts found that accompanying and visiting refugees, returnees and return movements to gain familiarity with the topics under discussion was crucial. Thus likely conflicts were anticipated and mediators could be on-hand to present their escalation.
- While creative ideas and possible solutions were frequently given by UNHCR as outsiders with a fresh perspective on certain problems, often such ideas were more effective when channelled through a person of moral weight and credibility for those negotiating (i.e. a Guatemalan Bishop) than were they to come straight from UNHCR.
- In the same way, co-ordinated efforts with diplomats or members with similar stature to lobby the government at the presidential level was more

effective than UNHCR's efforts alone.

- Respect for the particular dynamics of Guatemalan culture(s) (both the formal setting of Guatemalan institutional protocol and the nature of different indigenous communities) was crucial for timing and reformulating any proposed solution; many processes cannot be rushed and certain rituals regarding decision-making cannot be broken if a lasting result is to be achieved.
- In this sense, maintaining a degree of formality in most settings and often generating formal written agreements signed by each party was helpful for later monitoring and follow-up. At the same time, lack of formal mechanisms to enforce the different agreements led to uneven compliance. In retrospect, agreements converted into legislation and/or previously defined penalties for failure to comply by both parties might have avoided some of these problems.

d. Returnee documentation needs

The majority of the Guatemalan refugees who fled to Mexico, Honduras and other countries in the early 1980s left without any belongings, let alone documents to prove their identity. Moreover, due to the general exclusion of the Mayan and rural populations by the Guatemala State and its legislation, many refugees, especially women and girls, never were documented to begin with. The internal armed conflict resulted in the destruction of records in approximately 10% of the country's civil registries, making it impossible to verify births, marriages or paternity for many who were once registered. In a society relying on official papers to exercise an array of human and civil rights, lack of personal documentation makes it impossible to have a legally-recognised name and nationality, to legally marry and register births of children, to vote and to be elected. Lack of papers also seriously hinders the right to work, to have access to education and health benefits through the social services system, to the justice system, to credit, and to own and/or inherit land and property.

Conservative estimates consider that between one and two million Guatemalans do not have documents (10-20% of the current population). Major obstacles include very formalistic civil registration legislation and the fact that many rural communities, including the majority of returnee settlements, are geographically very isolated. A trip to the nearest civil registry can entail a journey of a day or more on foot and/or over bad roads and many family members rarely travel at all (another reason that women are less likely to be documented since men tend to travel more and women stay behind with small children).

Given that the first groups of Guatemalan returnees were having problems exercising the afore-mentioned rights making their reintegration illusory, UNHCR gave early priority to legal reintegration whereby most of the returnees would be registered and in possession of birth certificates and ID cards (*cédulas de vecindad*). While activities of this sort were implemented early on in UNHCR's programme, they were intensified in 1997 and 1998.

In the area of personal documentation, UNHCR-Guatemala initially funded the Guatemalan repatriation counterpart, CEAR, and then shifted support in 1994 to NGOs specialising in documentation issues. Despite UNHCR efforts to follow-up and correct implementation, the documentation project was always characterised by its high cost and delays for beneficiaries. To a large extent, the causes of these problems were intrinsic to the documentation process and beyond the control of the implementation partners. The national and decentralised system of personal documentation, the upheaval during the conflict and displacement (including the burning of civilian registries and refugees' tendency to change their

names out of security concerns) and outdated legislation, set the stage for many obstacles. Nevertheless, overall results were deemed positive in that returnees were eventually documented in a very high percentage.

e. UNHCR's expanded efforts to promote personal documentation

In the context of the Peace Accords (which emphasised documentation for displaced persons) and an initiative generated by UNHCR Headquarters (in the framework of its capacity building focus), in 1996 UNHCR-Guatemala designed a new and more ambitious programme to address documentation problems focusing on regions affected by war and displacement including, but not limited to, returnee communities.

The main components of the new documentation strategy for 1997 and 1998 were:

- To influence a change in legislation that would result in less cumbersome procedures for birth registration, death certificates and marriages (such a law was approved in October 1997 for a three-year period);
- To provide documents to newly arriving returnees and those who returned previously who were as yet undocumented. In some cases former IDPs would receive direct assistance with documentation needs (if settled with returned refugees for example);
- To conduct an awareness campaign with other actors in order to sensitise the population to the need to be documented and the procedures to be followed. This campaign was aimed at the entire population, but concentrated in areas of displacement in rural areas. Mostly radio messages were used (because much of the population is not literate), broadcast in Spanish and six Mayan languages;
- To train the civil registrars to use the new legislation and to promote a standard application of its provisions. Basic training of "documentation promoters" in each sizeable rural settlement in the areas of return was also provided through a local NGO and UNHCR-employed consultants; and
- To strengthen the civil registries' ability to perform their services, mostly through provision of basic material and equipment.

Key elements of the implementation strategy included:

- - A coalition formed with 28 governmental and non-governmental, national and international organisations to promote the documentation campaign.
- - With the help of Guatemalan legal experts, UNHCR's direct involvement in drafting more flexible documentation legislation and lobbying Congress for its eventual approval.
- - Local NGOs were selected to document returnees, co-ordinate the radio campaign, design and distribute materials, and to train documentation promoters.
- - The publication of 6,000 booklets on the new documentation law by MINUGUA which also co-operated in dozens of training activities for civil registrars and other civil servants.
- - UNHCR retained the services of a senior legal consultant for training activities, and four documentation officers, all Guatemalans who co-ordinated the activities in all return areas, carrying out surveys and monitoring the work of the NGOs involved in direct documentation efforts and training.

- - Close co-ordination with a European Commission-funded activity focusing on regions with returnee and displaced populations that overlapped somewhat with both UNHCR's geographic focus and the implementation period.

As a result of the campaign and related efforts, UNHCR and other actors estimated that about 42,000 persons were documented including returnees, 'returned' internally displaced, demobilised guerrilla combatants and others. It is hoped, furthermore, that the initiatives served to create heightened awareness among the population at large as to the importance of documentation now and in the future (for children yet to be born, for example) and that the municipalities are better equipped (with knowledge, awareness and infrastructure) to facilitate new documentation for those who need it. Nevertheless, beyond the passage of the law (which eased requirements for documentation only temporarily) and the individualised documentation programmes, there is no way to measure the broader and long-term effects of the campaign and even 42,000 persons may be considered only modest success considering the size of the population in need.

In particular, UNHCR and other actors later analysed that the government's support to the different initiatives was extremely weak. Despite the fact that significant groundwork was laid for ongoing efforts to encourage documentation, both during the period of the temporary law and beyond, new actors and new funds would be needed and are not necessarily forthcoming.

Lessons learned: documentation

- *Documentation as a priority activity and the use of UNHCR resources:* National documentation for individual returnees and influencing documentation procedures is a valid investment of UNHCR resources and may prove especially important where lack of basic ID documents prevent exercise of basic rights.
- Where it is difficult to ensure that all those in need of documentation will arrive to the corresponding government office, outside agencies can make a tremendous difference in funding government registry workers to arrive directly to communities as a more cost-effective and efficient solution. Bringing the documentation system closer to the inhabitants is one of the best ways to facilitate women's documentation given that women are less likely to travel and/or make a special trip solely for the purpose of documentation.
- *Practical provisions for returning refugees:* To the extent that refugee children born in exile can return with their birth certificates in hand (where these are required), a great deal of time and effort is saved as compared to retroactively processing and then distributing the corresponding paperwork. The same is true for foreign nationals accompanying returnees as spouses.
- Where the adult refugee population has used other identities in exile for security purposes, it is difficult to accurately collect data pertinent to new documentation until the refugees have returned and are psychologically ready to recognise their true identities for the sake of issuing or reissuing identity documents.
- *Overcoming obstacles posed by the limitations of Guatemala's temporary documentation law:* When the documentation project was expanded in 1997, there was a lack of reliable data in regard to the number of potential beneficiaries and a lack of clearly defined indicators. This later hindered UNHCR's capability to measure the impact of certain aspects such as the documentation campaign's promotion by radio.

- Given the fact that the documentation law (making documentation procedures flexible) was temporary and restricted to those displaced by the violence, the national problem of lack of documentation independent of the war was scarcely addressed. On the other hand, the law was flexible enough to accept most persons affected directly or indirectly by the conflict as qualifying if the regional civil registrars and local authorities were lobbied to this effect.
- The general invisibility of IDPs in Guatemala (except for a finite number in organised groups) meant that many of these potential and intended beneficiaries were either not comfortable with identifying themselves as such or simply did not think of themselves as "displaced". In municipalities that were overwhelmingly affected by war and displacement, it was more effective to simply target every inhabitant as qualifying for the special documentation procedures under the law (by nature of having lived in a region that was uprooted in social, political and economic terms).

f. Monitoring of basic rights for returnees

One of the tenets of the Guatemalan return programme was the fact that UNHCR's presence in the war-torn and militarised areas of return was a form of prevention and protection. Donor countries concerned with the lack of humanitarian "space" in these regions of Guatemala were aware that part of the high price tag of the Guatemalan operation was paying for staff to be present even before substantial numbers of returnees arrived. Of the four sites where UNHCR initiated field offices, only one had any UN presence previously; government institutional work was weak if not absent altogether; and NGO presence consisted solely of a handful of pioneering international medical NGOs in two of the regions targeted by UNHCR. The rationale, therefore, was to open the way for other actors by example and simultaneously to deter human rights abuses or discriminatory practices aimed at returnees.

Given the absence of overall institutional guidelines and, in general, lack of specific guidance from UNHCR Headquarters, many activities carried out by UNHCR-Guatemala were considered legitimate as part of a broad protection mandate. Most of these activities were deemed positive by office staff, the beneficiary population, donor representatives and counterparts, but their application (or lack thereof) was often arbitrary, dependent on the criteria of the individuals carrying out management or protection activities. One obvious drawback to this approach is that not all activities were applied equally in the different areas of UNHCR operations in the countryside and not all received appropriate follow-up in the case of staff turnover. Although always in co-ordination with the protection officer, most of the professional staff were involved in protection issues at one time or another given their broad definition as applied in Guatemala and the relatively small number of persons assigned exclusively to the protection unit.

In the area of human rights, UNHCR-Guatemala, along with many other national and international actors, sought to monitor the well-being of returnees in the polarised and often militarised context described. UNHCR-Guatemala supported the efforts of national institutions charged with human rights protection, especially the national Human Rights Ombudsman's office through selected financing of their programmes and general co-operation at the field level. UNHCR also conducted workshops with local military personnel. This aided in normalising contact with the army, still greatly feared by returnees, and in demystifying for the army both the returnees (historically labelled as guerrilla supporters) and the international institutions working with them (like UNHCR). Once MINUGUA was in place in late 1994, charged with monitoring compliance of the human rights

agreement between the guerrilla and the government, many of these activities could be co-ordinated with or ceded to MINUGUA staff.

The presence or proximity of army outposts on land belonging to refugees was a great concern for those returning between 1993 and 1995. These cases were resolved through protracted negotiations with army officials, over whom even the civilian government had little sway. Although the army made clear that relocation would take place at a pace they would determine, they did, in fact, withdraw in due time. Much effort was invested by field staff in investigating returnee denunciations of army incursions or what they termed intimidation tactics such as low over-flights of army aircraft. Creating physical distance between army units and the returnees was considered prudent to avoid unnecessary confrontation. Nevertheless, direct targeting of returnees was not anticipated.

Serious human rights violations did occur, even when the worst of the war seemed to be winding down. The worst incidents included the already cited gunning down of returnees in October 1995 in the community known as Xaman; the sniper-like assassination of a repatriate girl in a temporary returnee settlement in December 1995; and the detention of UN (including UNHCR) and international NGO workers in a geographically isolated and armed community opposed to the return of refugees (also in 1995). In these cases, UNHCR observed and sometimes aided initial investigations and follow-up on consequent legal actions. Ultimately, however, most follow-up was left to MINUGUA and national entities.

Protection measures also were taken in regard to the physical risk of explosive artefacts in some returnee regions. Unexploded bombs previously dropped from planes, combined with grenades left behind in army outposts or campsites, posed a larger risk than land-mines, which had mostly been used defensively in the Guatemalan conflict and subsequently removed. UNHCR was the first international agency in Guatemala to take an active interest in the problem and sought international funding and an executing agency for a preventative mine-awareness campaign and selected clearing of urban areas to reduce risks. When artefacts were detected, specialised army personnel would detonate or remove them with the full co-operation of the returnees. The programme was successfully refunded independent of UNHCR intervention and expanded to additional geographical areas through a national entity later on, under the guidance of the Organisation of American States (OAS).

- "Los acompañantes": protection through physical presence

The October 8th Accords signed between the refugees and the government in 1992 make explicit the government's acceptance of "accompaniment" by international visitors as well as UNHCR, the national Human Rights' Ombudsman's office and others. After contacts between refugee groups and international delegations, the latter set up solidarity networks in their respective countries and agreed to send observers as per the refugees' request. Eventually 16 organisations from as many countries had accompaniment projects with the communities of both returned refugees and displaced populations within Guatemala. Their methodologies differed in terms of training and follow-up provided, skills offered to the host communities (some came as technical co-operants and some as human rights monitors) and time devoted to the communities (ranging from weeks to years). In all, the experience proved useful to the individuals involved (often young people and often linked to a home community or church group interested in following events in Guatemala) and to the communities whose horizons and contacts were expanded.

While UNHCR at first maintained a distant relationship with these international

visitors and their organisations (who, in their grassroots support for the refugees, were sometimes sceptical of UNHCR and other "official" institutions), co-ordination was possible. UNHCR offered orientation and training to new participants and relied on those with long-term presence in the communities for insights and information. In general, where an environment of conflict and tension existed, UNHCR co-ordinated with all on-the-ground actors as part of a prevention and early warning strategy.

While it is not possible to quantify if international presence actually prevented protection incidents, there is a sense that the collective efforts of UNHCR, NGOs, the international accompaniment volunteers and all others present did serve as a deterrent for the kinds of problems and abuse of power faced by the first repatriates between 1984 and 1990.

Lessons learned: protection and monitoring of basic rights

- The lack of clear guidelines as to what constitutes UNHCR "protection" issues in a country of origin means that the selection and handling of cases depended upon individual initiative. In addition, the lack of clarity and uniformity caused some issues to be handled by field office or other staff who did not necessarily have the proper training or guidance for certain activities such as conflict resolution.
- In retrospect and in absence of guidelines from UNHCR Headquarters, a cut off point for involvement with returnees after their return in regard to protection issues would have been appropriate. If such a target had been set, more concentrated efforts would have made to strengthen and accompany national protection mechanisms within this time frame. (In the case of Guatemala, short-term protection monitoring for repatriates could have been handed over more completely to MINUGUA once this UN verification mission was operating).
- To the extent possible, sufficient information regarding war torn and/or especially complex regions should be collated before scheduled repatriation operations take place in order to learn more about the socio-economic, political and other aspects affecting return and reintegration. When such investigation cannot be carried out beforehand, it should be a priority alongside repatriation efforts. The investment in time and human resources may prove more cost-efficient if major problems can be anticipated and averted or conversely, if more durable solutions can be sought.
- In conflict areas, UNHCR has a legitimate interest in promoting demilitarisation as a basic condition previous to, or shortly following, return movements. Additionally or alternatively, it is important to explore the formal establishment of minimal norms that parties in conflict would agree to respect for the benefit of returning refugees.
- Early warning mechanisms that can prevent or mitigate problems in isolated return areas include giving priority to establishing permanent communication infrastructure, networking with other institutions/entities to share information and communication networks and educating returnees themselves on how to document and respond to crisis situations.
- In retrospect, UNHCR in Guatemala, could have given more priority from the very beginning to strengthening other institutional (permanent) actors involved, or potentially involved, in human rights monitoring.
- Some protection issues related to basic rights but not classic "human rights" could have been better defined from the start and appropriate counterparts for rights promotion identified. Two examples of this are land

tenure difficulties and problems related to domestic and family violence (regarding the latter, UNHCR-Mexico took them on at the core of its protection programme whereas UNHCR-Guatemala did not).

- Where no other relevant international organisation is present, UNHCR should be prepared to give more active and direct follow-up to legal cases involving returnee human rights.

3. UNHCR programme and its context

a. Chronic underdevelopment and the context for reintegration in rural Guatemala

To understand the limitations faced by UNHCR in its assistance and reintegration activities in Guatemala, it is important to point out the generalised and historical problems that effect or limit development potential in the countryside. Certain national indicators of economic development, which might seem positive compared to other developing countries, are misleading in that they mask the great disparities between sectors of the population. The differences are especially noted by geographical region (highland and isolated jungle areas versus urban and/or coastal regions) and in terms of ethnicity (indigenous versus non-indigenous). The poorer and more isolated geographical regions coincide with the location of the majority indigenous population who in turn have the lowest indicators of access to education, health services and employment. The vast majority of returnees came from and arrived to these same under-served regions which are the same regions that suffered extreme violence, displacement, destruction and disruption of local economic and social patterns.

While the last 14 years of democratic rule and increased openings have prompted a gradual increase of institutional presence in the countryside, in general the government institutions are weak: extension workers are generally too few, underpaid and with virtually no resources with which to carry out their work. No comprehensive and long-term development strategy has ever been successively disseminated and decentralised in practice although each ensuing government has created short-term initiatives with mixed results. In recent years, the government has relied more on special *ad hoc* "social" funds to address, respectively, extremely impoverished areas, former conflict areas, indigenous communities and others. Some of these projects have benefited returnee communities and regions but due to their very nature --funding channels meant to bypass the characteristic bureaucracy associated with state ministries-- they have done nothing to resolve the underlying structural problems related to delivery of state services.

Given the apparent lack of restrictions about where returning refugees could settle (different agreements refer to complete freedom of movement and choice of settlement sites), it is surprising to some observers that some communities ended up on agricultural land with good potential and others in extremely remote areas with poor quality land. This is the result of two factors. Firstly, many refugees chose to return to their lands and/or areas of origin due to cultural and family ties despite the limitations that these areas represent. Repatriates thus repopulated northern Huehuetenango and northern Quiché (specifically the Ixcán region). Secondly, from 1993 until 1998, refugees in need of new lands were channelled by the primary land purchase programme offered by the State to returnees to seek lands only in certain areas of the country and with certain price limitations (see below).

This led to the establishment of communities in regions that were new for most returnees and where lands were inexpensive precisely because of their isolation and/or limited potential for productivity (Petén and Alta Verapaz). With few exceptions, therefore, lands were not acquired in the more accessible and fertile pacific coast and piedmont regions until 1998-1999 when six more farms were purchased in this region. Some of these more recently established communities therefore have better long-term potential (if capital for productive activities is made available) but received less short-term assistance both by UNHCR and many other funding initiatives targeting returnees that had been disbanded by this late return date. Although all returnee locations vary in many ways that effect their development potential (length of time established, degree of external support, internal organisation, land quality, existing production, proximity to markets, access and infrastructure), the communities with the bleakest outlook are those that returned within the last two years (when support was winding down) and which were established on poor quality land and/or in isolated regions.

- Historical problems related to land and state-run land acquisition programmes for returnees

Guatemala is well known internationally for its extreme inequality of land distribution and the conflicts and problems that continue to result. As an agricultural country whose majority indigenous population continues to rely on land for daily survival, lack of land was one of the touchpoints for the 35-year armed conflict only recently concluded. The demand to obtain land was foremost for the refugees and remains the chief concern of the rural population in general.

An innovative factor in the Guatemalan return programme was the fact that the Guatemalan government financed the purchase of agricultural land for returning refugees. Although the different land purchase programmes suffered from a variety of difficulties and resulted in an expensive (and therefore difficult to replicate) model, the potential problem of locating where large groups of refugees without land could settle was resolved by the possibility of these state-financed lands. As little state-owned land was available and the government was unwilling to expropriate land, the programmes bought private land at market prices for refugees. The following problems resulted:

- Land was purchased at high cost, often inflated by owners given the political (and international) pressure on the government generated by the refugees to acquire land quickly.
- The land purchase programme did not attract international funding since donors were reluctant to indirectly benefit wealthy landholders.
- Some refugees were able to negotiate expensive, more productive land and others settled for less costly (and therefore more isolated and less productive) land.
- The government had a financial incentive to direct refugees to less productive land and crowd more people together in order to better the investment per family ratio.
- For those communities that must pay back to the government the purchase price of the land, payment schedules are not realistic based on projected production. For those communities expected to create a community revolving loan fund instead of reimbursing the government, the government did not provide technical support or guidelines on how to make such a fund functional .
- Given the high investment made by the government on land purchase itself, the government has been unwilling to fund production-oriented credits or projects.

- There is a lack of administrative mechanisms on the part of governmental agencies to easily or automatically incorporate women as joint owners of lands purchased. The oversight on the part of the government continued even in the face of women's mobilisation to reclaim this right and in many cases was reflected in the government officials' inability to conceive of any other system than that of a typical family being represented by the male "head-of-family".
- About one fourth of the nearly 23,000 refugees arriving as part of collective returns returned to their own land and three fourths solicited new land under the purchase programmes (or received new lands in compensation for lands they could not recover). Together with some other families that benefited from the purchase of land for refugees, the government estimates that some 5,000 families (most but not all returnees) were given land in this way. The average cost per family in these cases was approximately U.S. \$ 6,000 although it ranged from US \$ 1,000 per family to one extreme case where U.S. \$ 20,000 per family was spent.

b. Repatriation assistance: beyond the basics

In comparison to some repatriation operations where the debate has revolved around cash grants or in-kind assistance, the Guatemalan returnees were given both. To the extent that funding was available, the varied nature of the assistance package proved important both as an incentive to return (especially for families repatriating outside of the collective return process) and for initial survival in the isolated return areas normally bereft of minimal access or short term prospects for significant food production.

Although meant to assist them in their disadvantaged state, the levels of assistance tended to set off the returnees from their non-repatriate neighbours and, in some cases, this caused resentment. In the first years of the (individual) repatriation operation, the repatriates were identified by the shiny roofs made of corrugated metal sheets. This, in some regions, reinforced the political scrutiny and distrust to which they were under as former refugees.

In general, neighbouring communities or families living within communities with repatriates/returnees were not given assistance packages because of the high cost involved and the rationale that these other families, although affected by the war and its aftermath, at least had minimal housing and ongoing agricultural production. Whereas the strategy of implementing Quick Impact Project (QIPs) in communities neighbouring returnees or on a regional level was supposed to ameliorate this negative effect, in practice the QIPs were sometimes too little, too late, or were abolished altogether due to funding problems.

- Transport and reception

Transport modalities adopted in the return from Mexico depended on two factors: relative ease of access and the availability of routes to and from each location; and, in the case of the collective returns, political negotiations with the refugees. In most cases, all transport originating in Mexico was paid through UNHCR-Mexico regardless of how far within Guatemala the transport was needed.

For the some 20,000 repatriates who arrived in small family groups every two weeks between 1987 and June 1999 over the principal Mexico-Guatemala border (rarely more than 50 families at a time and normally between 10 and 30) logistics were a continual, if predictable, challenge. The families were picked up in their different camps, sometimes in different Mexican states, and concentrated in a Mexican reception centre. After arriving in Guatemala, they generally spent two

nights/three days in the main Guatemalan reception centre (in Huehuetenango) where they received food and other forms of in-kind assistance, assessment of their documentation needs and sometimes health check-ups. They were transported with their assistance items to their final destination or to where existing roads permitted. To transport goods onward to villages with no roads, CEAR would contract cargo animals or cash was provided to returnees to contract such services directly.

For collective return movements, arrangements for type of transport, route and overnight stops were developed on an ad hoc basis for each group (unless a previous group had had a similar departure point and destination). Given poor access in many cases, reconnaissance missions were carried out between the relevant parties and special "quadripartite" meetings (Mexican and Guatemalan authorities, UNHCR and refugees) made decisions for each group.

Some large returns were carried out using air transport from Mexico to a Guatemalan airstrip in the general vicinity of the return site when the number of refugees made this a more cost-effective option. Nevertheless, in some cases the most cost-efficient route was vetoed by organised refugee groups who had other criteria including the task of making the return process visible within Guatemala and economically beneficial to neighbouring communities. The most notorious case was the first organised and collective return in January 1993 in which 2,500 refugees undertook a two-week caravan of 850 kilometres to reach their settlement site including a stop in the capital city.

Where the destinations of collective return movements had no permanent road, UNHCR financed at least temporary access for the return itself (bridge repair, opening of roadways to at least make them accessible to tractors, etc.) while long-term solutions were under discussion with the government. The high costs of some of these rehabilitation projects were consistently less than the projected cost of using animal transport.

Over time, more efforts were made in Mexico to limit refugee cargo although strict control was not always possible and the isolated nature of return sites meant that even rotted wood or warped roofing was given a high value by the refugees. The most effective scheme was limiting and eventually eliminating the transport of most animals brought into Guatemala by compensating refugees who left animals behind. Previously, UNHCR-Guatemala had financed veterinary services for animal transport and quarantine. The trade off, however, was the fact that work animals (and others used to supplement diet/income) were not readily available near most destination sites and the reintegration process suffered from the corresponding setback.

- Why was assistance so expensive in Guatemala?

High administrative costs in proportion to numbers of beneficiaries: From its inception, the Guatemalan programme and field office structure was conceived of in the context of the fragile security and human rights situation, especially in the remote return areas. A minimum of two international staff were placed in each office to carry out protection and monitoring functions as well as programme delivery. As described by UNHCR for the 1994 meeting of its Executive Committee (EXCOM): "...the extent of UNHCR presence should be assessed not only in relation to programme delivery, but also in terms of the support provided by UNHCR for promoting the creation of conditions that are conducive to repatriation and consolidate the durability of the solution."

The dispersion of returnees was great and there was deficient or no access whatsoever to many communities: Individual repatriate families and collective

returns returned to over half of the country's 333 municipalities (covering virtually all of the 22 departments) arriving to hundreds of villages. A typical group of 30 families concentrated in a single repatriation movement might have a dozen different destinations, including several only accessible by several hours walk from the nearest, poor quality road.

The voluntary repatriation process was extremely drawn out; excluding most cost-effective measures: Some villages were literally repopulated over a ten-year period as families arrived by twos and threes. There was little possibility to speed up this pattern as communities let some families pioneer resettlement as a way of testing the waters, others waiting until they were sure that repatriation was a desirable and safe alternative to refuge.

Even for larger groups and collective returns, savings due to larger scale operations were offset by the limited supply of goods and services available locally: With larger groups heading to the same destination, local resources were often overwhelmed (buses and pickups for rent, mules for transport of goods) resulting in higher prices due to the need to import services from elsewhere or because of the sudden high demand versus small supply available. Mexican truck owners, for example, charged considerable amounts to traverse poor quality roads in Guatemala with refugee cargo but off-loading and finding regionally based Guatemalan transport was even more expensive.

In general, UNHCR had no control over the rhythm of returns based on land acquisition or land recovery: The host of factors delaying foreseen returns made the operation less efficient *per capita* (as costs were incurred with or without frequent repatriations) and seriously affected planning efforts as many destinations for collective and larger-scale groups were confirmed at the last minute when pressures for a rapid repatriation also drove up costs (implementing agencies working overtime or with extra staff).

- Cash grant and housing

The cash grant was administered at the rate of U.S. \$ 50 for those over 14 years of age and U.S. \$ 25 per younger child (always given in local currency). As of 1993, the total of the family cash grant was handed to each person in question except for that of the younger children whose money was handed over to the mother. Through this practice, UNHCR increasingly fomented the view that the money was for the use of the entire family and not just the male head of family. The formality under which each couple received the money (jointly signed receipts, for example, and ample explanation) was increased through the years and the net result was an understanding by the women that they had a say in the decision-making process regarding the use of these funds. Though UNHCR knew of cases where the money was used for purchase of animals (for work, food or resale), small house-front stores, and housing improvement, no formal follow-up was done to determine how funds were being used and to what extent women and men were sharing equal responsibility for its use.

The evolution of housing assistance began with a family level package made up of roofing sheets, nails and a few construction tools that were distributed along with another cash grant (averaging around U.S. \$ 100), ostensibly for the purchase of wood or other housing materials. When UNHCR made a concerted effort to give wood in-kind instead of a cash equivalent, either the shortage of local resources made in-kind donation too expensive or deforestation on a local level was fomented. As of 1997, modest additional funding was given to women heading households alone to contract help in housing construction.

Ultimately, no appropriate solution to the dilemma of how to best administer

in-kind materials was found for families returning on an individual basis. But, as of 1997, funds earmarked for collective temporary shelters for the collective returns were reallocated to contract the construction of basic minimal houses (with wood posts and plastic walls) for each family anticipated in the collective settlement. This alternative was deemed the most humanitarian for all concerned since the family was spared the initial work of erecting a temporary house. The lack of privacy and crowded conditions in the collective shelters had been problematic, as was the fact that women routinely stayed behind during community meetings to watch over family goods.

- Agricultural aid

Given that the UNHCR returnee caseload was virtually all rural refugees returning to rural areas, agricultural assistance was deemed crucial. Tools, corn seed and fertiliser were given on a per-family basis. For many years, the same agriculture package was used regardless of destination and no specific orientation nor follow-up was given. As of 1996, agronomists were hired to a) vary the standard package for individual repatriate families according to the region, and b) work together with the collective groups to determine the combination of seeds, fertiliser and tools best suited to their specific return site. Women head of households without partners also had the option of helping design an alternative assistance package that often reflected the need to produce food closer to the home (fruit trees, vegetable seeds or chickens for egg production).

Where a "family" was not made up of two or more people, only one third of the respective housing material and agricultural assistance package was given (except in the case of tools, which were provided in full). These single persons included mature, unmarried or widowed men, elderly men or women alone and living independently of extended family and, increasingly, young people establishing themselves independently at the moment of return (initially men only and later women as well). While the policy of giving only one third of the materials or supplies was not satisfactory for legitimate cases of mature persons living on their own, it was maintained in order to limit the possibility of abuse (wherein young people would split-up prematurely from their families in order to claim assistance). Ironically, UNHCR's determination to treat men and women equally sometimes further complicated the assistance scheme (for example, since a young couple could claim more assistance than a single man and a single woman together, UNHCR-Mexico suspected that some young men would precipitate finding a partner --sometimes a girl of 14 or 15 years-- in order to claim family assistance).

- Food aid

Since 1987, the World Food Programme (WFP) contributed to the repatriation programme with food administered through the Guatemalan Government via prior arrangements with transport costs covered by UNHCR. For most of the programme, the food aid consisted of rations per person calculated for nine months equalling approximately 2,000 calories per day and made up of corn, beans, cooking oil, canned meat or fish and smaller amounts of sugar, salt and rice. Over the years, however, the components beyond the first three were decreased or cut from the programme. In many cases during the first year after returning, real food shortages were faced and many returnees suffered from a nutritionally deficient diet, although other programmes (chiefly those of NGOs) stepped in with food supplies. The only food supplement directly purchased by UNHCR was lime (*cal*) used for softening cooking corn and the main source of calcium in the rural Guatemalan diet.

The terms of the food aid programme, conceived of before the possibility of the

collective return process was foreseen, was better suited to the case of small groups of repatriates or individual families who arrived to their home communities. In this situation, the WFP rations were a complementary aspect of a more complete diet: destination villages had fruit, vegetable and poultry production established which permitted trade or purchase of these items at cost. Furthermore, family and community networks were usually available to help sustain return families until their first harvest. In the case of the collective returns to sites where often no production at all was underway and no established community existed, obtaining local produce entailed significant travel and/or ready cash and thus a varied diet was generally sacrificed.

In addition, for many years the programme suffered from the bureaucratic national system used to receive, store and transport food aid. Once the food aid was available to the Guatemalan agency (CEAR) responsible for transporting it to returnee sites, poor storage facilities and agency inefficiency compounded delays. Consequently, basic grains often arrived to returnee communities late and in questionable condition. UNHCR presence in the field was effective in identifying problems but corrective measures by WFP and CEAR were not always timely. In the case of particularly serious problems and/or when joint evaluations were carried out, WFP was more responsive but in general UNHCR was blamed for many problems it was not formally responsible for.

- Additional assistance for collective return groups

In addition to the collective shelters (or housing construction) described above, collective groups generally received other emergency assistance. This assistance was budgeted under the programme contemplating the return itself (logistics and assistance) and, in retrospect, was not always conceived as part of the continuum towards the "reintegration" activities and budget also managed by UNHCR. In general, this additional assistance may be characterised as: provision of access and temporary infrastructure, emergency health coverage and preventative health measures (such as latrines and waste disposal) and the provision of potable water. The counterparts were mostly national and international NGOs specialised in the respective task. In most cases, assistance was channelled through a signed agreement/contract that avoided complicated programme procedures (use of sub-agreement). Many of these emergency projects were initiated before each return took place but relied on an "advance brigade" of returnee families (or sometimes men only) to help make decisions and to provide paid labour.

In regard to water provision and health care in the emergency phase of the return operation, various NGOs shared their opinions in an evaluation workshop held in May 1999. These included the observation that in many cases, UNHCR was not prepared to give adequate follow-up to temporary projects nor were NGOs contracted or found to take on a permanent role. Therefore, the possibility of the temporary water system breaking down, for example, in a community with no available funds or technical support to fix it, was high and actually occurred in a few instances.

In the case of health support, there is general consensus that the Health Ministry remains extremely weak in rural areas and no short-term presence of an NGO working in emergency health care was sufficient to stimulate permanent coverage. Where a NGO programme already covered a geographical region with a long-term programme, and UNHCR provided funds for an initial involvement in a new returnee community, the programme was usually successful since the community was therein incorporated into an ongoing and regional programme with independent financing.

Despite the attention given to the topic of reproductive health for refugees in Mexico, little or no follow-up was given in Guatemala by any actor including UNHCR. At UNHCR's insistence, the health check-up routinely given to refugees prior to their return (of which the results were handed over to health authorities and/or the NGO giving follow-up in Guatemala) included information noting which women had IUDs for future monitoring.

Other comments in regard to the emergency phase of the collective settlements included the excessive costs due to the extreme isolation and poor access of many communities and the difficulty of incorporating returnee women participation into many aspects of emergency planning and programme implementation. In reference to the latter, it is possible that most NGOs were not properly aided in how to best foment the women's participation and may have made half-hearted attempts at best. In their eyes, the common practice of men carrying out technical and physical tasks overrode attempts to involve women, even at a decision-making level. With extreme pressure on each NGO to keep to tight deadlines for each return movement, the quality of community participation was sacrificed in some, although by no means all, cases.

Lessons learned: assistance

General

- The relatively "generous" assistance package was important in creating incentives for return and a minimal basis for reinsertion.
- Efforts to make in-kind assistance a priority as opposed to cash, responded to information by women that the latter was more likely to benefit them and based on the reality that produced goods could not be purchased or were prohibitively priced in most rural points of destination.
- Nevertheless, not enough effort was made to give visible attention to neighbouring communities (for example, parallel programmes by other agencies to ensure minimal housing). Despite the fact that returnee flows attracted regional and generalised aid by area, the perception was often otherwise and this increased resentment against returnees.
- The investment of staff-time dedicated to assuring that women were present when assistance was given out and that men and women had understood that assistance was meant for joint administration, was important. Women felt validated by external and symbolic recognition of their role and presumably had more opportunity in which to influence the use of family resources.
- Additional assistance items that would have been useful and particularly related to women's domestic labour during initial installation include cooking pots and water containers.
- Decisions about family versus per capita assistance should take into account social structures to not artificially encourage "marriages" or the creation of new families in order to gain assistance.

Logistics

- The practice of substituting transport of animals for buy back schemes previous to return movements was a positive cost-saving measure. However, complementary measures to promote acquisition of animals upon return for the nutritional well-being of the families could have been emphasised through QIPs or institutional linkages.
- Other reimbursement schemes or incentives to cut down on cargo from refugee settlements to return communities would have been cost-effective

given high transport costs.

Agricultural assistance

- The introduction of flexibility in the agricultural assistance and the active involvement of agronomists in advising and supporting initial agricultural activities were important improvements for the programme. More visibility was given to women's role in relation to agricultural and livestock activities.
- The agricultural cycle and possible lack of storage facilities for seeds should also be considered.

Housing assistance

- Provisional houses per family, as opposed to collective shelters, plus minimal construction materials were a preferable option where feasible.
- Drawbacks related to the materials provided (type of roofing that was unsuited to hot climates or wood that was scarce in some areas) were never resolved.

Food aid

- Changing the content of food assistance over the years and between deliveries was confusing for the beneficiary population. Cutbacks in the number of months of food aid and the partial elimination of protein sources and other foods endangered returnees' nutritional status. Insufficient follow-up was given to quality of food and timeliness of delivery. UNHCR's inability to supplement or ensure additional foodstuffs contributed to decreasing nutrition for returnees in their first year after return.
- The possibility of selling WFP aid and purchasing certain staples from local markets was only initially explored. This could have been a possible, partial solution to exorbitant transport costs and food deterioration due to number of consecutive storage sites.

Emergency assistance in new settlement sites

- UNHCR probably could have saved time, effort and funds by better integrating certain emergency projects with the intermediate-term projects (QIPs) also financed by UNHCR.
- Implementing partners located for the implementation of emergency projects had less incentives/possibilities to follow-up on their own work with independent funding than was the case with organisations involved in development-type projects. Where UNHCR has little capability for follow-up, this problem should be anticipated.
- Repatriate families arriving "individually" and not with collective returns received much less assistance and in most cases were not given any follow-up. In many cases their communities lacked the same basic services as the newly established collective return sites and the outlook for their reintegration was worse.

c. Reintegration activities

- Quick Impact Projects

The concept of Quick Impact Projects (QIPs) grew out of the decision by UNHCR in Central America to assist returning refugees beyond the one-time assistance package (transport, food and housing construction aid) which was standard UNHCR practice in the 1980s. By definition, the QIPs were conceived of in a way that would avoid UNHCR involvement in lengthy and complex development processes while promoting rapid and effective responses to immediate needs.

The application and selection of possible QIPs was to be based on a simple and reasonable set of guidelines founded upon the tenets of grassroots community development. The longer-term projects that were needed were to follow under the auspices of other more development-oriented agencies, both UN and others.

QIPs were established in order to provide immediate support towards basic needs on a community level so as to promote a sense of normality to recent returnees. UNHCR would invest relatively modest sums and procedures were streamlined. Community support (and preferably participation in planning) for the projects and in-kind contributions were essential and in most cases at least tacit support of the government was required.

- Choice of implementing partner and overall programme design

In the implementation of the QIP programme, the model of an "umbrella agency" was based on UNHCR's experience in Nicaragua. The precept of such an arrangement was that UNHCR's administrative practices were too cumbersome to merit a direct relationship with every entity that would carry out a project and that, furthermore, an agency specialising in project design and follow-up would help guarantee positive results. The Canadian development agency, CECI, was chosen given its presence in Guatemala at the time (one of only a handful of operative international NGOs) and the favourable attitude of most Guatemalan NGOs towards Canadian counterparts. In addition, the notion of using an agency specialised in development was seen as an appropriate way to ensure that reintegration projects were conceived of in a longer-term context.

The three overall objectives of the QIP programme were:

- to contribute to reintegration via the rehabilitation of social and economic networks and productive infrastructure;
- to facilitate reconciliation between returnee and neighbouring populations; and
- to promote conditions for further development initiatives in returnee areas.

In regard to the gains made via the QIP programme towards reintegration and long-term development initiatives, the following observations as to successes of the QIPs are pertinent:

- The emphasis on the strengthening of community organisations within the QIP programme and the fomenting of their capability to lobby and have contact with a diverse range of institutions will serve the communities for establishing long-term and ongoing links.
- The creation of some region-wide networks for marketing and other purposes has long-term potential.
- Some of the productive projects undertaken have been fully appropriated by the communities and have the potential to remain sustainable in the long term.

Projects were either initiated after discussion between CECI staff and the community (often in a general community assembly and often with UNHCR presence) or brought to the attention of CECI by an NGO that had already reached an agreement with the community to propose a certain project. While CECI would take responsibility for all technical details including feasibility, mechanisms, design, budget etc., UNHCR would have final say on the political considerations of the project: such as if it would promote reconciliation or division and did it have priority over other projects or not.

A joint UNHCR-CECI committee in each UNHCR field office (where CECI

promoters were posted) was the first level of project approval. Then CECI and UNHCR officials in Guatemala City would sign off and/or amend or exclude projects. Initially efforts were made for formal co-ordination through a standing committee involving UNDP and government counterparts but this did not prove effective in promoting joint or complementary efforts and the co-ordination was reduced to sharing copies of approved projects to at least avoid duplication of efforts.

In general UNHCR's close involvement with QIP implementation was beneficial given UNHCR's intimate knowledge of the returnee communities. Nevertheless, there were also disadvantages in UNHCR --in its role of funding agency-- having an on-the-ground and permanent presence where the implementing partner, CECI, was expected to carry out all the technical and operational aspects of the programme. In the first place, UNHCR intervention at the micro-level ultimately made CECI less accountable for some of the problems that arose. Also, while staff from both institutions generally tried to work together, there were often personal or work style differences that resulted in competition and occasionally conflicts at the field level.

It must also be said that, despite the development of two consecutive "strategic plans" in 1995 and 1996 involving the majority of UNHCR professional staff, these plans were never used consistently as blueprints to dictate UNHCR actions in reintegration activities or in any other area. Although the effort of clarifying through a group process the goals and limitations of UNHCR intervention was helpful for those directly involved, the resulting document was never actively used either in orienting new staff nor in outreach to counterparts and other institutions.

- Production versus infrastructure

The relative emphasis given to production products versus infrastructure within the QIP budget was debated throughout the programme's existence. Two tendencies were clear. On the one hand, when the programme started, there was more need for basic infrastructure given a relative lack of parallel programmes. By the late 1990s, government programmes especially were significantly more involved in targeting return communities with road projects, schools and other basic infrastructure.

On the other hand, within each community's evolution there were different priorities at different times. Since all of the collective communities arriving to new land had virtually no infrastructure and any previous infrastructure in re-established communities had often been destroyed, these projects were given first priority by the communities, along with potable water projects. As the food and agricultural assistance wound down at the end of the first year and basic infrastructure was in place, the communities' priorities would rapidly shift to the kinds of projects that would generate food and/or income.

There is little question that the seeds of survival and reintegration are only possible with projects oriented towards production and income-generation and that they are needed often before specialised institutions or structures are in place. These two reasons, made these types of projects a necessity in the scope of QIPs in Guatemala while recognising that their more ambitious nature limited UNHCR's ability to ensure their sustainability.

- Notable innovations of QIP programme in Guatemala

The QIP programme in Guatemala began in 1993, making it part of the first generation of QIP programmes carried out by UNHCR and thus it did not benefit from later attempts to systematise and standardise QIP guidelines. In evaluation exercises, some of the particular strengths of the QIP programme, either

innovative for UNHCR or within the Guatemalan context, include:

The extensive **use of community organisation counterparts** as implementing partners. In these cases NGOs often acted as technical advisors to the communities, but were not the formal project counterparts. This formula was used to invert the traditional roles (wherein NGOs control the funds and terms of the project while the community signs off) and give more organisational capacity to community groups.

In addition to the principal goal of aiding in reintegration, or at least addressing immediate and basic needs, an important collateral goal was the **use of projects as a means of promoting reconciliation**. The dynamic of bringing together diverse populations around their common needs and mutual interests (both within and between communities) proved strategic in breaking down different obstacles for communication between groups. In other cases, the reconciliation effect occurred because communities neighbouring returnees had reason to believe that their needs were also being considered and the presence of the returnees had helped attract much needed attention to their communities.

The strategy of using the QIPs **to attract national NGOs to open operations in new geographical areas** (that were also the most isolated and tense due to the continuing armed conflict) was effective. On the one hand, a single project or a group of projects allocated to an NGO often gave the organisation a funding base with which to justify new projects in the area for which funding was sought elsewhere. On the other hand, the presence and sponsorship of UNHCR was seen as institutional backing in a difficult political climate. There were also cases of NGOs specialised in certain sectors taking on new sectoral activities through QIPs once the NGO had developed rapport with a community and become familiar with a region. In at least one case a newly-formed NGO, created by professionals living in the rural area it covered, became an established, economically viable actor on the local scene through the QIP programme.

- Gender focus in QIP projects

While an ongoing stated starting point and ultimate goal of the QIP projects, a gender focus proved difficult to incorporate in an ideal manner and gender equity did not result from many of the projects. At the planning stages of the projects, some efforts were made to at least nominally include women, such as inviting women to meetings and adjusting the meeting time to one they could attend. While this meant that women's participation in planning was not specifically facilitated, an effort to not discriminate against women was made and women's status was reinforced in that outside and "important" institutions such as UNHCR and CECI insisted on them being present. There were also cases where community women emphasised their particular community priorities (often access to potable water) and these priorities were adopted by the community as a whole.

Often, however, women's participation was limited to so-called "women's projects" which tended to be smaller in terms of resources and impact when compared to what were considered "community projects" generally under the control of a group of male leaders. These "women's projects" were, in their own terms successful for the most part and included collective mechanised corn grinding mills, fuel-saving stoves, community stores and backyard animal or gardening production. *Ad hoc* committees were formed among women to run these projects or local affiliates of one of three returnee women's organisations were approached as counterparts.

The QIP programme emphasised the training and organisational components of these projects with the hope that the skills imparted and the experience of

running a successful project would help the women improve their position or status in the community and further qualify them for more important roles in other, male-controlled projects. The results were mixed: in some cases, women did learn valuable skills and have maintained successful projects to date. In other cases, women have become further divided as a result of a project and/or demoralised if the project has failed. Of the "typical" projects listed above, however, most were successful in resolving part of the day to day burden placed on women because of their domestic labour (fetching water from a distance, grinding corn by hand and gathering firewood) and were considerable positive priorities for returnee communities.

In regards to encouraging and enabling women's participation in larger projects that were desired and generally co-ordinated by men, the general rule is that the higher the stakes (the more resources involved or the more financially successful the project) the harder it was for men to cede space for women's participation and the harder it was to motivate women that they were capable and worthy of participating. The methodology of obligating the community to assign women to make up one-half of any counterpart project committee was not usually successful (with some exceptions). Women committee members were often silent observers and/or not taken into account when 'real' decisions were made.

An ultimate conclusion in this regard is that CECI received mixed messages from UNHCR in regard to gender policies and form of implementation. While CECI projects were often criticised for their apparent lack of gender focus or uneven participation of women, CECI was simultaneously pressured to execute more projects in less time and with fewer resources indirectly precluding the gradual process of creating the necessary conditions wherein women felt comfortable and able to participate. Also, from CECI's point of view, UNHCR gave vague criticism of gender-focus problems but did not provide close accompaniment or specific methodologies for overcoming them.

- QIPs carried out after closure of the QIP programme

In 1999, financial considerations led to the scaling back of the QIP programme, the focus for the year was restricted to new returning communities, follow-up for selected 1998 projects and administrative closure (transfer of project ownership etc.). Nevertheless, the last handful of collective return groups encountered many obstacles in negotiating land for settlement and several arrived in late 1998 and early 1999. Thus UNHCR decided to proceed with the closure of the QIP programme through CECI but reserve approximately U.S. \$100,000 for a handful of emergency projects in the new communities. Twenty-four projects were carried out in 15 communities. The projects included basic infrastructure (simple water systems or feasibility studies for water or electricity), support for schools and schoolteachers, corn-grinding mills and initial support for agricultural production or processing. UNHCR used Guatemalan consultants to design and follow-up project implementation and chose NGOs that were already active in the areas/communities in order to insure some follow-up for each project although UNHCR would not financially contribute to the NGO once the project was formally finished.

Although these small-scale QIPs implemented in 1999 were a mitigation strategy without ambitious goals, UNHCR-Guatemala evaluated the experience as extremely positive and cost-efficient. In some ways, the experience promoted reflection on the pros and cons of the "umbrella agency" model as opposed to UNHCR's direct implementation through a locally-employed technical team. While direct comparison of the two experiences is not possible in financial terms (because of the way the administrative costs were distributed differently in the two methodologies) and long-term sustainability of any of the projects can only be

evaluated in the future, the following observations are pertinent:

Most implementing agencies will have fewer incentives to be more cost-efficient (with UNHCR funds) than does UNHCR when directly involved in implementation.

Any implementation methodology benefits from the presence of existing NGO (or other) counterparts in the communities, whose commitment to the project and relationship with the community goes beyond the funding period.

Reducing QIPs to their most minimal and basic expression, in line with the QIP methodology promoted by UNHCR in general, are satisfactory in that they do address emergency, immediate needs and are fairly simple and cost-effective. However, the reality for many returnees is the evident need for more ambitious projects that help build their economic security and, even without calling them development projects, UNHCR has often felt compelled to address these needs where other actors are not yet present.

Lessons learned: QIPs

- As practised in Guatemala, the QIP programme is a generally successful approach for addressing important community needs. Even when other institutions are available to provide similar projects, UNHCR QIPs are often more rapid. Speed, efficiency and flexibility are therefore characteristics to be conserved and fomented.
- QIPs can be utilised as a tool to meet the basic needs of a newly established community more efficiently to the extent that these are contemplated in a standard checklist that could generally include basic standards of water supply, education, sanitation, harvest processing for food or sale (in Guatemala: collective corn grinders and coffee or cardamom processing equipment).
- The potential for QIPs to be used as a reconciliation tool should be promoted and not underestimated. The opposite is also true: projects that foment divisions within and between communities undermine whatever other success the project promises.
- It is never too early to seek linkage and transition strategies for QIPs and QIP-like projects. NGOs successful at implementing certain standard QIPs can be presented for direct funding by other sources, long-term projects initiated by UNHCR must be channelled to others early on for long-term follow-up and tasks done well by other actors should be those that UNHCR is willing to cede as this becomes viable.
- The trade-off between the potential for productive and income-generating products (both credit and non-credit) which make repatriation a truly durable solution cannot be ignored but, as is evident, the follow-up involved and amounts of funding necessary is normally beyond the scope of QIPs as they are typically defined.
- The benefit of "quick" projects with rapid results is normally at odds with the requirements of conducting a project with a gender focus: rapid planning and implementation is often carried out with men who may or may not be representative of their community. The human and financial resources necessary to ensure gender equity in project planning and implementation must be considered as well as the time limits placed on project implementing partners.
- Other "short cuts" to reinforce women's participation (such as quotas in activities and committees or, as applied in Guatemala, the obligation for a male-run project to hand over a percentage of their projects to a women's organisation) not only ignore the more profound issues at hand but can, in

some cases, further disadvantage women (either setting them up for failure or causing men, women and institutions to conform to solutions that look good on paper but do not change their reality).

d. Promoting women's community participation

Guatemalan women faced new challenges in Mexican refugee camps in comparison to their prior experience in Guatemala. Ultimately, responding to these challenges led to an unprecedented transformation in how many women saw themselves and their potential participation in the community. Initially these women were largely unable to communicate with each other because of their different languages and lack of knowledge of Spanish as a *lingua franca*. Coming as they did from rural villages with no schools and no tradition of educating girls, refugee women at first had limited capacity and very low self-confidence with which to participate visibly in the organisation of refugee life. Nevertheless, the crisis of flight and emergency and of making the initial refugee camps to function forced women into new roles. Later, women were singled out to implement small economic projects. Even when these were unsuccessful economically, they were beneficial in that they brought refugee women together to collaborate.

In Mexico, NGOs, UNHCR and the refugee women's organisations eventually approached work with refugees with a defined agenda of empowering women as a necessary step to ensuring women's participation in creating durable solutions for themselves, their families and the community. Once refugee women's organisations had been created (with support from NGOs) a joint commission between UNHCR, the women's organisations and the NGOs was formed to co-ordinate their complementary agendas. UNHCR Mexico initiated a gender-based approach to its work in general, which included promoting the following in its work with Guatemalan refugee women:

- A literacy campaign designed with women's organisations which was used as a tool for raising women's self-esteem and contact with one another.
- Implementation of time- and labour-saving devices such as mechanical corn-grinders and fuel-saving stoves.
- Reproductive health services.
- Training in improving communication skills was offered to refugee women and one result was a refugee women-run radio programme for other refugee women. This became an important vehicle for spreading information and improving skills of the women involved.
- Protection and rights training encompassing human rights, women's rights, land rights, and awareness of sexual and domestic violence (including mechanisms to report such violations and how to receive follow-up from UNHCR).

These programmes were all undertaken with a clear decision by UNHCR Mexico to work closely with NGOs and to create an "open door" policy whereby both refugee women and men would feel comfortable approaching and working with UNHCR staff.

These and parallel efforts by other institutions and the growing enthusiasm of the refugee women helped lead to new possibilities as women spoke out more in regard to community matters, derived pride from having their own organisations, designated young women as health, education and human rights promoters and sent their daughters, as well as their sons, to school.

Nevertheless, the high expectations that UNHCR, the women themselves and other actors had in regard to how refugee women would apply these skills and

their new-found confidence once they had returned home, were unfulfilled. For the most part, women were not attaining leadership positions in community structures apart from in women's committees or as members of returnee women's organisations. Most women with partners were often discouraged or prohibited outright from joining the community co-operatives which in most cases was the equivalent of being excluded from community land ownership. Widows and other women heading households alone were not given any special considerations when asked to fulfil obligations to the community (in terms of paying co-operative dues or contributing with manual labour to community tasks) and thus these women were at a great disadvantage compared to two-person headed households. In general, women's visibility in the community in regard to decision-making and their contacts with the outside world were reduced upon return.

The reasons for this "backslide" when compared to women's expectations and the skills in evidence in the refugee camps, are more or less three-fold. Firstly, the objective conditions in the returnee communities were very different than those in the refugee camps. In the camps, basic needs were covered and in some cases, refugee families were generating adequate income. In general, education, health and other services were consistently available and many families had drinking water close to their homes as well as other advantages. Houses were close to one another and a dynamic had developed over many years between community women and their leaders.

Upon returning to Guatemala, at least initially, these factors changed completely. Women did not necessarily return with the same women leaders from their camp or settlement and in many cases, did not know most of the other families at all. Life once again revolved around daily survival; by necessity women were busy in their newly-established houses often dedicating considerable time to retrieving water or firewood and were engaged in any activity that could generate income. Women became more isolated and the lack of a pressing common objective (which as refugees had been to organise themselves in order to demand their return home) left them with no clear single common priority.

Secondly, in retrospect, there is evidence that the opportunity for women to meet together and exchange ideas, attend workshops, and voice opinions was tolerated and encouraged by men in refugee camps but stifled in return communities. The change of attitude both at the household level and at the level of community leadership was also due to many factors including the economic duress of the families already described. But the political organisation of the refugees as expressed through male leadership also had less use for women's organisation once the return had occurred; women's participation in Mexico had conveniently lured in extra funding and created pressure against the government. Ultimately, many men felt threatened that women would demand increasing quotas of decision-making power and/or felt that women had nothing to contribute where 'real' decisions were to be made. Moreover, both men and women were affected by the illusion that going back home meant that everything that had been upset during wartime would now go back to 'normal' and for some this normality was premised upon women limiting themselves to child-care and domestic work within the home.

Thirdly, the organisational support that existed for Guatemalan refugee women in Mexico, did not exist for the most part for returnees. Few special opportunities were provided to women to enable them to continue their training and consciousness-raising activities. Institutional help focused on helping the women's organisations develop centralised structures which did not necessarily permit the organisations to work effectively with women at the grassroots. Many

NGOs and government institutions were not aware of or interested in incorporating women and thus women remained invisible when resources were given out or projects implemented. When government institutions (often out of ignorance, not malice) told women that it was "impossible" to include them in the provision of some benefits, women were unsure how to assert their rights: where male community leaders and other institutions did not actively support them, these mixed messages sowed confusion and conflict. Overall, UNHCR underestimated how much special backing women would need in order to consolidate and apply the gains made in Mexico.

Lessons learned: women's participation

- Effective protection and genuinely durable solutions for women require an institutional approach at all levels based on rights advocacy. Anything less places women and their control of the resources received from UNHCR in a vulnerable situation, thus undermining the principal objectives of UNHCR intervention.
- In regard to the role of UNHCR, taking on an issue that challenges common practice and personal belief for many within and outside the institution, requires a unified approach within the institution. As illustrated by the case at hand, all staff in any context must be prepared to respond effectively to any attempt to sow doubt in the minds of the women regarding their rights.
- It is necessary for women to organise in order to be able to take on these issues in any serious way, and to be able to face and overcome obstacles and opposition. Specific actions must be taken to strengthen women technically and politically at a grassroots level and to promote recognition of their right to autonomy from specific political tendencies. Institutional support clearly plays an important role in furthering/strengthening the cause of women in working towards gender equity through women's organisations. It must be recognised that such activities require long-term commitments from UN and other funding agencies and cannot be limited to one side of the border or the other.
- It is necessary to clarify legal processes and prepare for administrative, normative and cultural obstacles in order for women to truly be able to exercise their rights. A strategy for working at each level simultaneously and to involve all the relevant actors early on is critical in this regard.
- A further essential aspect is for women's productive and community role to be made visible and recognised. Until women's full contribution to family and community daily life is fully understood and valued by both men and women as well as the institutions providing aid, it will be difficult to assimilate the concept and practise of women's rights with that of community participation in general; and their full access to and control of the resources and benefits derived from community development, and land in particular, will be very limited.
- Forming women's organisations without parallel work on the traditional male structures will not necessarily lead to long-term overall change. For sustainable empowerment to be achieved, it is important to work with both women and men, separately and together. Greater understanding of the gender power relations is always required; any strategy must consider men's contribution, role and fears.
- Public affirmation of women's rights (through events with broad institutional participation) and formal affirmation (accords, documents) have a multiplier effect as institutions and governments are publicly committed and written agreements provide an organising tool for women. Moreover, where

women's organisations have been responsible for the content of an agreement or commitment, their pride and confidence in their own abilities increases, especially where women have a direct voice in expressing their demands.

- Small economic projects in refugee camps brought women together and helped validate women's skills and share experiences despite their differences. On the other hand, where these projects fail, women's confidence drops and their initiatives lose momentum. Women's outright ownership and direct control of their projects is an important step to building confidence. Models for joint-ownership of community projects and joint-ownership of land can also be of great value.
- Women were given the opportunity participate by men, due to the extraordinary nature of war and displacement, the new needs which emerged as a result, the existence of more widows and also because of the manipulation of women's new role for political ends. To the extent that men learn not only to accommodate but appreciate the advantages of breaking down gender roles, these changes will be more lasting upon returning home and onwards.
- Women's personal identification documents are necessary for them to be landowners and exercise their rights. Their organisations may need to be legally recognised as well.

e. Transition from emergency to development

UNHCR initiated its expanded presence in Guatemala in 1992 in the shadow of an important conclusion throughout Central America and especially in regard to the QIP programme in Nicaragua: many UNHCR activities were judged to be satisfactory on their own terms but failed to become incorporated into the agenda of other long-standing actors (and therefore risked backsliding or disappearing once UNHCR had withdrawn). During the CIREFCA process and through the joint technical CIREFCA support unit formed by UNDP and UNHCR, both agencies promoted the idea that the temporary work of UNHCR could be eventually taken over and sustained by UNDP. All activities, therefore, were to be co-ordinated from the beginning with the relevant government institutions, UN agencies and NGOs with the joint goal of UNHCR eventually and continually ceding activities to other appropriate actors.

Even with the heightened consciousness of the challenge involved, UNHCR predictably encountered the same obstacles of similar programmes while indirectly (and unconsciously) following a strategy that was put forth in a 1994 UNHCR discussion paper:

- UNHCR was modest in describing and publicising its role in post-return reintegration although some of its programmes were very ambitious.
- For the most part UNHCR looked for national and regional-level partnerships and not to UNDP or other large-scale/international development agencies to find solutions for problems at the community level.
- Theoretically at least, UNHCR sought to leave many smaller projects as self-supporting within and by the community itself or leave a task completely finished (personal documentation for returnees, for example) thereby reducing the volume of initiatives which needed to be adopted actively by other actors.
- At the same time UNHCR sought to exercise its "catalytic" role and contribute its accumulated experience in regard to larger and more

complex tasks to those actors formally responsible for them.

UN co-ordination

UNHCR depended on UNDP as Guatemala's lead UN agency for many practical and administrative matters given the absence of an *accord d' siege* for UNHCR. Also UNDP led, especially as of 1993, an active inter-agency forum involving heads of agency for both ongoing analysis of the country and for internal matters such as UN reform. In operational matters, UNDP's field presence in Guatemala was limited to the PRODERE programme carried out between 1990 and 1994 in two rural regions, one of which coincided with UNHCR presence. In general, therefore, the inter-institutional relationship sometimes suffered from the different focus each agency gave to its work; UNHCR's more field- and action-oriented activities versus a more academic, policy-oriented and centralised approach from UNDP.

After the UN Verification Mission (MINUGUA) was formally initiated in November 1994 (first to verify the partial peace accord addressing human rights and, after December 1996, charged with overall verification of peace accord implementation), MINUGUA became a routine counterpart for UNHCR. MINUGUA field offices coincided with all five UNHCR field sites and in these areas, MINUGUA could take advantage of UNHCR's previous knowledge and contacts. UNHCR, in turn, would rely on MINUGUA to take a lead role in addressing human rights or related concerns of the returnee populations. In general, resources were often shared or co-ordinated and coverage of events or incidents dealt with jointly or with one organisation informally taking into account the interests of the other. The generally positive personal attitudes and behaviour of the staff of both MINUGUA and UNHCR (as the two principal faces experienced by the rural communities of the "United Nations") were important in establishing and maintaining credibility.

As mentioned elsewhere in this document, WFP and UNCHS/Habitat were key operational partners with whom co-ordination went smoothly. UNICEF briefly co-ordinated a handful of water projects but was not generally involved in the same rural areas as UNHCR and different co-ordination attempts were not successful. UNICEF did contribute expertise, based on its previous experience in El Salvador, to a campaign in 1994 aimed at risk-prevention in areas affected by mines and explosive artefacts.

Of the different UN inter-agency commissions, UNHCR was most involved in the one focusing on gender issues. Although time-consuming for the individuals involved and not always directed at activities of practical use for UNHCR, the opportunity to exchange information and reinforce processes taking place within each agency was deemed important.

- Government institutions

In regards to the relationship with the governmental counterpart, CEAR, significant ups and downs occurred over the years. The institution changed personnel and policies under each of four ensuing governments and during most of its existence (especially until 1996) suffered from a lack of support from the central government in financial and political terms. As UNHCR did not finance the salaries of CEAR staff, employees were often underpaid and thus unmotivated (with important exceptions), with no incentives to travel to distant communities or undertake proper follow-up. In general, the CEAR field staff had very little autonomy and depended on a centralised bureaucracy for most activities, further limiting effective action and individual initiative.

A major discrepancy with CEAR in regard to their reporting of the allocation and management of UNHCR funds in 1995 led to the total suspension of new project funds for several months. During this time, UNHCR directly implemented all purchases and activities, co-ordinating with CEAR field staff for actual project delivery. The rupture of the financial relationship was effective in generating the institutional changes necessary to resume the project. In the final years of CEAR's operation, improved support from the central government (which significantly improved CEAR's overall capability) coincided with increasing cut backs from UNHCR due to funding constraints. CEAR, nevertheless, was closed down in June 1999 and responsibilities in regard to returnees were dispersed among several government offices. CEAR employees, however, have been transferred over the years to other government institutions where their specific background and sensitivity to returned refugees has been important.

As referenced in the discussion on mediation issues, UNHCR maintained working relationships with many other government institutions, often to lobby for specific solutions or policies or to show support for and accompany certain initiatives.

- Co-ordination with NGOs

A range of both national and international NGOs and other institutions also implemented various components of both assistance and reintegration work but in general, working relationships with NGOs went beyond financial arrangements. UNHCR was frequently called upon to be involved in co-ordination forums with institutions completely independent of a funding relationship. Indeed, for several years the office maintained a parallel dialogue with NGOs who were politically involved in the return process and its negotiation (and influential through their guidance of the refugee organisations) while holding separate, "technical" discussions with the NGOs involved in carrying out UNHCR-funded activities.

Over the years there was more and more overlap between the two groups and in general the politicised and tense environment often affecting programme implementation slowly subsided. In general, it can be observed that the initial stereotypes of UNHCR as a bureaucratic institution that by nature would oppose returnee and NGO initiatives were transformed by the continual presence of UNHCR staff alongside the returnees in their negotiations and their isolated communities. UNHCR's global "Partners in Action" (PARinAC) initiative was used in Guatemala as a way to generate discussion generally on the overriding political issues as opposed to the technical ones and was appreciated as an opportunity to share ideas although few concrete results emerged.

- Developing a linkage strategy

UNHCR initiated efforts to involve long term developmental actors during the first years of operation without a clear and consolidated strategy. The complexity of actors, the lack of institutional presence in areas of return, the ongoing war and political pressures made it difficult to consolidate future plans in the initial part of the programme.

Governmental actors, donors, UN agencies and some NGOs did not consider returnee communities as a specific priority for development activities due to their limited number and the visibility of support given the return itself (including UNHCR assistance and the fact that the government was aiding land purchase). Co-ordination within the government in regard to overall policy on displaced population was extremely weak and translated into the government's inability to co-ordinate with other institutions on the topic.

The first plausible opportunity for inter-institutional co-ordination based on the implementation of the peace accords was the creation of the CTEAR, the

Technical Commission for the Implementation of the Accord for the Resettlement of Population Displaced by the Armed Conflict. This commission, created in 1994, was mandated as a six-person body with four voting members and two observers from the international community. The voting members were two representatives of the government and two from the population, in turn backed by a newly-created organisation of several grassroots groups representing displaced persons, refugees and returnees. The international community formed a consultative group of donor countries and UN agencies which elected UNDP (stipulated by the accord to administrate the CTEAR's trust fund) and the European Commission as formal representatives. During the first year and-a-half of the CTEAR, UNHCR was not given much access to the forum, which in any case had limited scope of action until the final peace accords were signed in December 1996.

As of 1997, UNHCR was invited to regularly attend CTEAR meetings (as an advisor to UNDP) and used the CTEAR to keep track of complementary initiatives and contribute to the same through UNHCR's particular expertise. Two examples of UNHCR's ability to take advantage of the CTEAR as a co-ordinating body while offering specialised aid in return was (i) the possibility to launch the inter-institutional documentation campaign with CTEAR trust fund financing and UNHCR know-how and (ii) the use of a sub-committee on land problems where UNHCR had much of the background knowledge but previously had insufficient access to the state powers with the potential to resolve land problems in returnee communities. Other sub-committees of interest to UNHCR included those concerned with health, education and productive reintegration projects.

Therefore, following the signing of the peace accords, the creation of better co-ordination mechanisms and with clarity about which regions would remain or become sites for refugee resettlement, UNHCR was able to formally lay-out a strategy for linkages in 1997 based on the following three objectives:

1. Identification of partner institutions and consolidation of joint efforts and/or a transition strategy at a regional and national level to **promote sustainability** of UNHCR interventions;
2. Preparation of a document jointly with CEAR and the CTEAR, **focusing on the pending agenda for reintegration in returnee areas**, as well as promotion and dissemination of information to all relevant actors;
3. **Formal agreements for joint initiatives** with several actors through bilateral or multilateral agreements for follow-up and to implement priority activities.

Throughout 1998, UNHCR intensified identification of new linkages and the strengthening of existing ones, at the local, regional and central levels in order to promote the sustainability of UNHCR's interventions and highlight the pending agenda for reintegration in returnee areas. To that effect, UNHCR has been consistently sharing profiles of returnee communities with a large number of governmental, non-governmental and other national and international actors. The profiles are aimed at documenting the overall situation in returnee areas from health, education, roads, food security, women's groups and other social organisation and the environment. UNHCR has also facilitated joint visits to returnee communities, held joint workshops and participated regularly in inter-agency meetings.

Concrete results include:

- the integration of several ongoing QIPs to the CECI project in the departments of Huehuetenango and Quiché under the Inter-American

Development Bank-funded community development programme DECOPAZ, for reintegration of uprooted populations and strengthening of grass-roots organisations;

- a memorandum of understanding (MOU) with the government social investment fund (FIS) for the construction of infrastructure, especially schools;
- the presentation of a comprehensive list of water projects completed by UNHCR/CECI to the respective municipalities, the FIS, UNICEF and the Institute of Municipal Development for the "Water, Source of Peace" programme for inclusion in their regular support plans;
- the support provided by UNHCR to the Technical Commission for the Implementation of the Accord for the Resettlement of Population Displaced by the Armed Conflict (CTEAR), in particular its documentation sub-commission to follow up on personal documentation activities; and
- an agreement with the National Institute of Co-operatives (INACOP) for their follow-up, training, support to the productive sectors and strengthening of co-operatives (including promotion of women's participation) in more than 15 returnee communities in Ixcán, Petén, Huehuetenango and the southern coast.

Lessons learned: co-ordination and linkages

- UNHCR did not have a comprehensive strategy to establish linkages early on given the constantly changing context of Guatemala. Although the situation was clearly unstable, identification of one or two key counterparts for ongoing transfer of responsibilities might have been possible.
- UNHCR acted with a great deal of independence during the first years of operation especially in regard to the Quick Impact Projects. UNHCR and CECI did not promote sufficiently the active involvement of local authorities, line ministries, and developmental NGOs in returnee communities.
- Efforts to decentralise the task of establishing linkages through each field office during the last two years of the operation facilitated improved exchange of information and the involvement of new actors from an earlier stage with new returnee communities. It was difficult to consolidate linkages during the last part of the operation due to the lack of resources to motivate and encourage those linkages.
- UN agencies with a development-oriented mandate were mostly involved in institutional strengthening at the national level and were not very interested in supporting specific interventions in specific communities or even returnee areas.
- Given the dispersion and varied conditions of returnee communities, the focus on specific projects, sectors and geographical areas for the establishment of linkages was more effective than a global linkage strategy.
- Signed memorandums, agreements and other ways of formalising linkages, was an initial goal to ensure commitments by other institutions but proved weak in terms of enforcement or guaranteed results to the extent that they were negotiated on paper but without the relevant commitment behind them (for example, an agreement outlining the respective contribution of five actors to improving education infrastructure and services, signed in 1997, was celebrated at the time but was in fact never implemented).
- The use of non-expendable property for consolidation of linkages has

proven to be a good tool considering the lack of financial incentives: the donation of equipment was an incentive for different institutions to carry on initiatives begun by UNHCR.

- UNHCR's promotion of the concept of creating linkages or transition strategies, once publicised had a positive effect on some institutions. For example, the CTEAR in 1998 began to develop its own linkage strategy foreseeing its eventual closure as a co-ordinating structure and has advanced especially in the areas of health, education and infrastructure during 1999.

4. Management of Guatemala operation and administrative issues

a. 1. Staffing, structure and co-ordination and inter-office relations

- Staffing:

The Guatemalan operation benefited greatly from initiating with a combination of persons already familiar with Guatemala (but not necessarily with UNHCR) and UNHCR staff who were familiar with other Central American repatriation operations. Once the operation was established, the influx of colleagues with repatriation experiences in other continents was equally enriching.

Continuity was also very important to an operation where in-depth understanding of local conflicts and personal relationships with counterparts and returnees enabled UNHCR to be effective. A three-year Standard Assignment Length (SAL) was therefore appropriate. Use of UNV and, in some cases, seconded staff with little or no limitations on renewals allowed the programme to build up expertise in certain areas. This compensated for the situations where regular staff or JPO's were rotated after one or two years. In several cases the UNHCR rotation system left important posts uncovered for months and where overlap occurred it was generally insufficient.

It is telling that a significant number of field staff tried to prolong their presence as long as possible even given isolation and other discomforts. The vast majority of staff developed a personal commitment to the operation: "Great efforts have been carried out by a[n]...exceptionally qualified, dedicated and hard-working UNHCR staff in Guatemala..."

In many cases, OCM briefings were insufficient for new staff (especially international field staff). Given the length of the operation, the office was weak in producing and updating regular briefing materials and no uniform induction process was followed. Periodic briefings on important and basic topics could have been carried out for all staff (local and international) to orient newcomers and reinforce identification with UNHCR's mission. Debriefings for outgoing staff were not undertaken on a systematic basis and in some cases, the office might have thus overlooked important information, especially in regard to improving field office operations.

Proper debriefing of staff, UNVs and consultants was also seen as weak. Some staff members had the opportunity to spend some days in Geneva after completion of their assignment and found a lack of interest and preparation for debriefings.

Lack of flexibility in relocating field staff and field offices hampered operations as field office set-up or relocation lagged behind needs in the changing scenario of return movements. Because professional staff were not easily relocated due to

contract obligations and corresponding high costs, the mobility of UNV and seconded staff was important.

- Co-Coordination and interoffice relations: UNHCR central office (OCM) and field offices (FO)

The forging of a team dynamic through sufficient contact with other colleagues was crucial. Where colleagues were physically isolated, never visited other regions and visits by Guatemala City staff were limited, their morale was predictably low. Attempts to rotate the field-based staff members who periodically participated in monthly meetings at the OCM were useful in this regard.

The lack of consistency in the operations management (which changed from person to person) and management's lack of clear division of responsibilities at OCM resulted in ineffective attention paid to problems brought to the attention of OCM by the field offices. In addition, the OCM had to focus on the sometimes bureaucratic tasks required by UNHCR Headquarters (at the cost of increased attention to the field offices and returnees) which field staff did not fully understand nor were they sympathetic about the time this took from addressing field-related priorities.

Often, only visits to the field regions (the more extended and extensive the better) prompted the central office to resolve the field offices' pending problems. Written memos did not effectively transmit the urgency of issues requiring OCM attention. Given the relevance of field visits by OCM staff, these were insufficient in number.

Training activities for staff were sporadic. Training on many practical issues facing staff was not undertaken, when it would have been helpful, due to for lack of time or resources. On the other hand, some training was carried out for the sake of complying with an allocated budget, not necessarily based on priority needs. Perception of junior and/or field office staff (reflected in the questionnaires carried out for this study) was that the considerable sums of money used on regional training programmed from UNHCR Headquarters, mostly for senior staff, was not consonant with the pressing needs and budget cutbacks experienced at the local level. No relevant training on repatriation and reintegration aspects was carried out.

As has occurred in other UNHCR operations, some local staff (mostly those based in the OCM and noting important exceptions) had difficulty understanding the nature of the work of UNHCR and were not always familiar with the mandate and 'clients' of the organisation. When Guatemalan staff from the capital (mostly in support and/or administrative roles) participated in field operations, they gained increased sensitivity to the realities of the countryside. This served both to stimulate effective support for field offices as well as to help bridge the gap of understanding by many urban dwellers of their rural co-nationals. Another positive result of such visits was to give capital-based staff more credibility and authority when representing UNHCR in front of other actors.

A related problem (for both local and international staff) was an apparent lack of common vision and relatedness between the various "units" created for administrative purposes (programme, protection, administration, etc.). Rigid perceptions about what tasks belonged to each unit sometimes prevented joint efforts or, at the least, a joint vision about approaching the larger tasks at hand.

- Co-ordination and inter-office relations: regional structure

OCM Guatemala was under the purview of the regional office in Costa Rica until 1997 when coverage was transferred to the regional office in Mexico. First,

structural dependence of the Guatemalan office on Mexico had been avoided since Mexico was the host to Guatemalan refugees but after the peace agreements were finalised in late 1996, no political tension existed on this account. In any case, the two offices had maintained a high degree of communication and policy co-ordination since the OCM was initiated in 1987 although the two offices were independent.

A positive relationship between Mexico and Guatemala offices grew out of direct contact between staff. More interchange between field office staff in both countries would have given UNHCR- Mexico increased credibility in its role of providing information to refugees and would have sensitised staff as to the logistical and other difficulties within Guatemala while UNHCR Guatemala would have benefited from direct experience with the refugee camps in planning and aiding new returnee settlements. An example of this is the fact that the sub-office in Mexico (Chiapas) with most contact and exchange with Guatemalan field offices was the one at which developed the most positive and harmonious working relationship on a consistent basis with counterparts in Guatemala.

- Co-ordination and inter-office relations: OCM/UNHCR Headquarters and UNHCR global policies' effect on local operations

Financial planning (UNHCR Headquarters and OCM) did not adequately take into account or compensate for the irregular rhythm of return. For some years donor generosity exceeded the rhythm of returns and later, when returns continued at a slow but steady pace beyond the period originally foreseen, sufficient funding was no longer available. These ups and downs of returnee movements were not fully anticipated and there was a lack of administrative mechanisms to reserve resources for funding shortfalls which subsequently affected program delivery. The QIP programme, as an example, was forced to cut projects during the two most significant years of funding shortfalls, 1995 and 1998, although there were important numbers of returnees both these years.

The Quick Impact Project (QIP) programme, as mentioned before, also suffered from lack of predictability of future funding in other ways. Since real ongoing projects responding to returnee needs almost never coincided with UNHCR's fiscal year, the agency administering the QIP programme could not formally commit funds to complete projects until the new year was underway. In general, the lack of an administrative mechanism to allow multi-annual planning and multi-annual commitments was detrimental to the programme. The QIP programme was forced to cut projects during the two most significant years of funding shortfalls, 1995 and 1998 although there were important number of returnees both these years.

The dependence of the operation in Guatemala (and some activities in Mexico) on special funds instead of annual programme funds raises important issues for other returnee programmes. On the one hand, consistent donor interest and earmarked funds permitted an ample programme in Guatemala even during years of marked financial crises in the UN and subsequently for UNHCR's annual programme. Nevertheless, when 'donor fatigue' (in part because the same donors were contributing to other aspects of Guatemala's post-conflict situation) set in before the last collective returns had even occurred, there was no agile mechanism for UNHCR as an institution to cover the gap.

In relation to reporting, UNHCR Headquarters frequently requested information from the OCM despite having the pertinent materials in hand. Special requests for new compilations of material were frequently at the last minute, interrupting planning and organisation of OCM. The pressure to satisfy UNHCR Headquarters was detrimental to the prioritisation of solutions for refugee/returnee problems.

Meeting such deadlines and in general putting one's superiors/colleagues in Geneva first (where future employment opportunities are determined) is therefore pitted against investing time and effort in field operations.

Complex for both UNHCR Headquarters and UNHCR- Guatemala, were funding and reporting requirements by each donor. Different fiscal years, lengthy approval periods and the frequent impossibility to apply retroactive charges for activities undertaken while approval was tacitly accepted but formally pending were particularly problematic issues. For UNHCR as a whole, the inability to streamline these procedures absorbs considerable time and resources.

Lessons learned: staffing, structure and co-ordination, inter-office relations, and selected structural issues

- Initial recruitment of staff in a new operation should give priority to including persons familiar with the country (and countryside) and particular situation of refugees/returnees.
- The benefits of consistent and direct contact between central office staff and field operations and the interchange between field offices both have multiple benefits ultimately aiding in maintaining client-oriented priorities at a policy level (and concerns such as staff safety) and promoting uniform practises and mutual learning country-wide. This applies to both senior staff involved in policy making and support staff whose commitment to responding rapidly to field office needs is crucial.
- Interchange where appropriate between staff on opposite sides of a border sharing a repatriation operation is a necessary investment leading to increased co-ordination between operations and improved understanding of the population involved.
- At the beginning of an operation and according to subsequent staff turnover, basic briefing on protection issues, programme and administrative policies and regulations should be given to all staff (including secretarial staff and drivers).
- Staff training should be organised in relation to the two basic functions: aid in doing one's current job better and staff development for an eventual change in posts. In times of work overload and/or financial shortfalls, the first was deemed more urgent by staff interviewed. The timing of staff development, on the other hand, should not be perceived to come at the cost of ongoing and urgent work with refugees, especially where the perception (or reality) is that there is an imbalance between those who benefit repeatedly from training opportunities and those (generally in field positions or lower-grade posts) who are excluded.
- Administrative mechanisms are necessary to facilitate a programme's' ability to "save for a rainy day" in order to compensate those moments of great need and less funds, with the periods when fund-raising exceeds the demand of the moment. At the same time, more fluidity is needed between programmes covered by annual programme funds and those under special programmes to guarantee, in either direction, that resources are found. In any case, mid- to long-term as well as contingency planning is required.

b. Structural response and staff commitment to gGender mainstreaming

A few basic generalisations will be made about the experience of gender mainstreaming in the Guatemalan operation. The following discussion is an attempt to separate the complex process of internalising gender-sensitivity in all internal and external facets of UNHCR as an institution from UNHCR activities with women refugees/returnees and in introducing gender focus in examples of

protection and programme work (described previously in this document). An overall assessment is that the 12 years during which the Guatemalan operation existed was a period of rapid evolution for the institution as a whole in relation to gender issues and UNHCR- Guatemala is an interesting case study about what did and did not change during that time.

In the office's increasing capability over the years to identify and address gender issues, corresponding UNHCR guidelines and pressure were influential as were different individuals with particular expertise and/or sensitivity to the issues involved. Given that implementing gender guidelines depends to some extent on a personal understanding and commitment to gender equity, the gender mainstreaming process must take into account the transformation of staff understanding as well as provide the tools to make it happen. In the case of UNHCR- Guatemala, less emphasis was given to staff training (beyond a handful of focal points), nevertheless, changes in day- to- day practises and the positive examples set by some individuals did create a new environment, more conducive to increasing gender mainstreaming.

Although specific activities undertaken to implement gender policy with refugees and returnees are discussed elsewhere, an example is included here as a way of illustrating how programmatic decisions can have a synergy effect on gender mainstreaming for an operation as a whole. The decision by the programme unit in January 1993 that UNHCR would involve both men and women of each family in receiving the assistance directly given out by UNHCR had a multiplier effect both within the refugee community and among the UNHCR staff involved.

In this case, a simple administrative action had positive repercussions on field staff in particular. Once women were called upon to receive their assistance, staff had to organise lists of names and receipts accordingly: making women returnees visible from an administrative point of view. On the other hand, the fact that staff were thus made to directly speak to the family as a family and not just the male head of household, made the women literally more visible. They had a brief opportunity to mention directly to UNHCR staff their particular concerns and were accorded due respect in front of their families. In this example, UNHCR- Guatemala initiated certain changes before specifically required to do so by UNHCR Headquarters or as part as an explicit gender mainstreaming policy and these new procedures quickly became the normal standard for the staff involved.

Around other profound issues of gender mainstreaming (such as involving women in political and logistical negotiations and planning, improved gender equity in projects, and carrying out capacity building on the topic with project partners), UNHCR often fell short of its (admittedly ambitious) goals when seen retroactively. Most energy was directed at supporting refugee women with short-gap measures as opposed to tackling more complex and integral facets of gender-equity.

Even focussing on the concrete obstacles faced by women returnees, the limitations faced by UNHCR- Guatemala were significant and can be attributed to two main factors. On the one hand, the setbacks that organised refugee women would face upon returning were not anticipated, let alone efforts made to prevent them. As described in the preceding chapter, women were isolated, dispersed from one another and wrapped-up in the task of daily survival given the adverse emergency-type economic situation faced by returnee communities.

On the other hand, the efforts made to address key issues facing women returnees were mostly handled through gender-focus experts and/or consultants and these efforts did not always take root. In some cases, outside consultants turned in reports and recommendations that were not taken into account at a

policy level. In another case, staff in a non-supervisory role but essentially in charge of 'policing' colleagues as to their compliance with gender guidelines, a clash of personal workstyles created antagonism instead of willing collaboration.

While the individual attitudes of those resistant to gender-equity policies were never completely overcome (jokes belittling the policy and/or declaring that the fact that females were present constituted "gender focus" were still frequent), dialogue within the office had been initiated and the stakes of being perceived as "anti-gender focus" (let alone tolerant of discrimination against women) were higher. Also, the positive evolution of both policy and practice over the many years of the office's existence is clear: whether due to institutional policy, individual initiatives or a mixture, UNHCR- Guatemala, in the context of the emphasis given on a regional level, helped change attitudes and practices towards women returnees as well as prompting a better understanding of a gender-equity perspective.

This last point is best illustrated in regard to UNHCR's image as viewed by external actors. The perception that UNHCR was "serious" about its concerns of gender-sensitive programming came when staff in management and/or visible positions began to insist in the organisational discourse in varied circumstances (not just in activities ostensibly relating to women) outside the organisation. UNHCR's insistence in bringing up these issues repeatedly, often in the words of men in positions of importance, is deemed to have had a positive impact in sensitising implementing partners, government officials and male returnee leaders. Other institutions often sought out UNHCR's knowledge or advice on gender issues and saw UNHCR as a pioneer in putting gender guidelines into practice. Returnee women, in particular, felt continually supported and validated in their endeavours because of UNHCR's public and ongoing commitment.

Lessons learned: gender mainstreaming

- Adequate attention should be paid to training counterpart organisations and implementing partners early on. In addition, the example set by UNHCR personnel in their personal attitudes and institutional practises (showing that gender sensitive planning and implementation is possible) is equally important vis-à-vis outside actors.
- In this sense, recruitment of UNHCR staff could highlight the need for sensitivity and openness to the topic in addition to other overall humanitarian values appropriate to UNHCR's work.
- The simple act of handing over family assistance with both men and women present is effective in both symbolic and practical terms. The fact that registration and forms must respond to the reality of women's presence is also helpful in making women "visible" for UNHCR staff and others.
- The use of staff designated as focal points for making others in the organisation comply with UNHCR gender policy is limited if the staff members in question are isolated and/or marginalised from what the office considers its "normal" activities.
- It is not fair to expect those working on policy issues and implementation, if not in a supervisory role, to enforce compliance of colleagues without explicit support and backing at the supervisory level. The incorporation of standard objectives for each staff members through the CMS system in regard to implementation of gender policy is therefore significant in this regard.
- If the implementation of gender policy is not reflected in adequate funding allocations, it is difficult to expect that it will be implemented correctly (for

example, special training for counterparts or development of culturally appropriate methodologies may be necessary).

- Gender mainstreaming got a late start in UNHCR-Guatemala and was not addressed in a comprehensive way although there was cumulative sensitivity to relevant issues by the end of the operation and an overall positive effect resulted. In the early years, the use of outside consultants or gender-focus focal points, while generating positive recommendations, tended to "ghettoise" gender and women's issues. Discomfort or resentment with the topic was reflected in jokes and other signs of uneasiness. An integrated approach where all staff feels involved in the process as a positive challenge is an ultimate goal without necessarily removing the need for gender experts or focal points.
- Another aspect of the evolution of the discussion within UNHCR is the fact that the topic of masculinity was virtually ignored as an important aspect. In retrospect, related discussion both among UNHCR staff as well as with partners and beneficiaries would have contributed to a more holistic vision of gender topics and possibly would have broken down the common misperception that gender policy is merely an agenda by which women put men on the defensive.
- The fact that senior positions within the Guatemalan operation (P-4 and above) were never held by women, paralleling the tendency for UNHCR as whole, was a symbolic limitation for the goals that UNHCR was advocating outside the organisation.

c. Phase- out strategy

Funding shortages in 1997 prompted a comprehensive phase-out strategy. The development of minimum indicators for returnees' installation in their communities from an earlier stage would have focused efforts when funding was available. As it happened, plans for a gradual and responsible phase-out were truncated by funding shortages and in some areas (geographical and programmatic), UNHCR's withdrawal was somewhat abrupt.

UNHCR Headquarters determined that UNHCR- Guatemala should completely withdraw by December 1999 although aspects of government application of the refugee convention were still under discussion, a new migration law had been passed, the last collective return movements were scheduled for the last four months of 1998 and other repatriates were still arriving through a formal programme through mid-year during mid-1999. Other operations in Central America had retained a minimal presence (normally with a liaison officer) for up to seven years after the last significant repatriation movement and it had been presumed that at least a skeletal structure could be maintained through the year 2000 in Guatemala. In mid 1999, the possibility of establishing a minimal presence was re-opened during a visit by the High Commissioner to the region.

Despite the constant repetition to returnees that UNHCR's presence would be short-lived for the population once it had returned in Guatemala, some communities or partner institutions were not prepared for UNHCR's withdrawal from rural areas. In other communities, however, the announcement was received with realism and it is possible that UNHCR's sudden absence stimulated the returnees to make new contacts in a more active way.

In the case of UNHCR staff, despite clear communication to staff as to the planned scaling-back of posts over different years and the resulting contraction of the field office structure etc., with notable exceptions some work units and/or field offices were not prepared to phase down until closure was imminent. Specific

observations are included in the summary that follows.

Lessons learned: phase-down

- Ideally, phase-down in a context where not all returnees have received the minimal attention by UNHCR, must be contemplated as a gradual process although this implies a more drawn-out funding commitment.
- The minimum time needed to implement field office closure is six months. Even with some preparation, the period previous to the closure of an office provokes tremendous work overload, strain and low morale among staff undertaking this endeavour.
- Activities should be downgraded at the same time as staff reduction is carried out. On the contrary, Office office staff supposedly in the midst of a phasing-down process to the contrary were given additional responsibilities to those already being handled, adding to stress and inability to meet deadlines.
- The waiting period for termination payments (indemnity, annual leave) is excessive. In some cases staff members have waited more than 4 months to receive their payment. It is recommended that authorisation be sought from UNHCR Headquarters in order to advance 80 percent of the termination payment on the date the staff members is separated members' employment terminates. It is important to prepare exit medical examinations as soon as possible in order to accelerate medical clearance which will expedite termination payments.
- It is impossible to close the official bank accounts coinciding with office closure dates.: Ffor country office closure: accounts ideally should be closed three months before the office actually closes. The process of delegating financial responsibilities to UNDP should begin with Treasury with as much anticipation as possible, preferably 3 months.
- By the time an office is closing, the amount of files to review and purge may be overwhelming. Reviewing the guidelines and carrying out file purging on a regular basis may be helpful. A person in each unit should be appointed the focal point and should be in charge of keeping their unit "clean" of unnecessary files. In the experience of Guatemala, however, the maxim of automatically purging the oldest files would have been detrimental to the historical vision needed in certain cases, mostly protection-related. On the other hand, an efficient central filing system that could have eliminated the multiple parallel files would have significantly reduced accumulated paper.
- There is no institutional system for capturing the larger picture/summary of an office (a narrative account). The information is fragmented in a variety of files. But when historical data is necessary, it involves going through boxes of old files. It would be useful to hire temporary assistance (perhaps an ex-staff member) before an office closes to pull together a narrative summary of UNHCR/government/implementing partner activities that could give a historical narration of the complete history of the office.
- A positive step by OCM was to prepare the UN standardised application forms (P11) sfor all local staff and circulate them to all UN agencies and other projects to support their future job searches. Nevertheless staff for the most part were not taken on by other UN agencies despite UN reform initiatives to that effect at the national level.

d. Other administrative and telecommunications

File and financial management: systems and training

Lack of proper administrative instructions for the establishment of field offices led to difficulties with management of funds and other administrative matters. For example:

The field office staff was required to manage large sums of money without training for non-career UNHCR staff, nor proper tools (UNHCR's FOAS/FOBS accounting and budgeting software). Authorisation for bank accounts was only given after the scale of operations had wound down in 1998.

The lack of institutional flexibility restricting use of field office bank accounts seriously hindered field operations. Often staff were put at risk by transporting large amounts of cash and/or excessive amounts were spent on transfer via security companies. The rigidity of UNHCR rules in regards to bank accounts signals a major contradiction since the same staff prohibited from handling bank accounts had a great deal of responsibility in other areas.

The record management system was never disseminated properly to field offices and each one developed its own system and habits which were hard to overcome.

Changes in instructions on non-expendable property (NEP) management, lack of clear and specific instructions and definition of framework for disposal and adequate software for inventories made proper management of property difficult. UNHCR's asset management software system (MINDER), for example, always created problems for OCM. The office invested vast amounts of time in recording assets in MINDER but, as the 1998 inspection mission pointed out, these had never been utilised at UNHCR Headquarters. Also, incompatible versions of MINDER system did not permit updating, human errors were not always detected, and it was not possible to correct system errors locally. Furthermore, no clear instructions in regard to items bought under the project budget were available.

The problem of delays in UNHCR Headquarters' decisions regarding asset disposal (utilising the GS.45 form) has been greatly diminished with the recent implementation of the Regional Asset Management Boards. It is recommended that GS.45s be prepared with as much anticipation as possible in order to avoid last minute problems with the sale/donation/write-off of NEP equipment.

Use of re-deployed vehicles and equipment from neighbouring operations in Central America was not cost-effective in the long run and put staff at risk.

- telecommunications and related equipment

The field offices never had reliable communications systems. At first problems were due to poor quality equipment inherited from other offices in the region. Equipment broke down frequently and was repaired by a national staff member trained for that purpose. Later, funding was available for better equipment but this equipment was not deployed in a timely manner to the field offices where it was most needed. Weakness in the supervision of the Telecoms unit aggravated the perception that the unit was not sufficiently responsive to field office requirements. Also, the government withdrew authorisation of frequencies in use (although one frequency continued to be used with full knowledge of authorities) and no adequate alternative was put in place until the field offices were closing. In summary, the field staff in isolated and/or insecure regions were frequently at risk with no or with unreliable communication equipment. Use of walkie-talkies (for visits to communities inaccessible by road) was dependent on borrowing equipment from UNHCR's national counterpart (CEAR) or MINUGUA which was often not possible.

Updated computer equipment and software (for OCM) lagged behind that of other UNHCR offices (especially before 1996). There was no uniform policy as to what equipment was given to each field office nor was there pertinent training of local field staff. In general, the field offices did not have modern computers, good radios nor, telephone systems (where phone lines existed) until the very last stage of the operation.

Policies relating to installation and access to radio communication were determined by adherence to UNHCR Headquarters' guidelines perceived as inflexible instead of being guided by protection concerns. Consequently, UNHCR staff, let alone returnee populations, were frequently in high risk situations with unreliable communications equipment or none at all.

Lessons learned: administration and telecommunications

- Old and/or unreliable communications equipment is not suitable for an operation with potential security risk for staff members. Any telecommunications strategy must be based on knowledge and understanding of field conditions.
- In many cases, vehicles inherited from other UNHCR operations were, in the long run, more costly to maintain than the purchase of new vehicles.
- More administrative flexibility is needed in order for field offices to have bank accounts and/or financial management systems and training where significant amounts of money are managed.
- Frequent changes to some management systems (NEP, for example) means that in a long-term operation will devote undue time to changing over from one system to another.

5. Some conclusions

Every repatriation operation is unique and the range of actors involved and to what extent also varies considerably. Nevertheless, the programme dedicated to refugee return in Guatemala deviated considerably from UNHCR's standard operations in a country of origin not the least because of the time and effort that UNHCR invested relative to the number of refugees. Another important factor was the political role played by the refugees in relation to the overall peace process in Guatemala, also disproportionate to their numbers. Here follows six characteristics that marked UNHCR's programme in Guatemala, valuable for the positive lessons they left UNHCR for possible application elsewhere.

A high level of **refugee participation** shaped both the nature of the repatriation and the variety of actors who became involved. Refugee visibility and organisation also helped stimulate donor-interest in funding the programme. The fact that UNHCR chose to support the participation of organised refugees reflected in the best sense UNHCR's conviction to facilitate repatriation in order to permit refugees to participate in post-war reconstruction. The Guatemalan refugees not only arrived home in time to take part in the reconstruction period, their very negotiation to return helped shape a broader peace process. There is no question that the quadri-partite model, used for many aspects of the return operation, sometimes prolonged the process but there is also little doubt that it prompted more refugees to opt for return and increased chances that the final outcome for any particular refugee group would be more durable. This also contributed to more active participation of the refugees once returned in the implementation of the reintegration activities.

Significant efforts and resources were put into **working directly with refugee and returnee women**. Following the model established by UNHCR Mexico

(which in turn had benefited from the experience of NGOs and the fact that women's organisations were forming independent of UNHCR), the Guatemalan operation followed suit. Although not uniform by any measure, there are significant examples of how contact with returnee women changed UNHCR policy and practice as well as heightening the opinions that UNHCR staff held about what was possible in striving for gender equity. While the ultimate evaluation of UNHCR's efforts in this area points to how efforts in Guatemala fell short, and especially when seen in contrast to expectations raised in exile, there is no doubt that the returnee women view UNHCR as an unmistakable ally that helped give them credibility. Furthermore, many other actors and institutions saw UNHCR as a leader in fomenting women's participation in recommendation and in practise.

From mediation to operations, the Guatemalan programme was marked by extensive **inter-institutional co-ordination**. UNHCR was not isolated as an institution and was actively involved in a variety of different forums key to deciding and improving the future of the returnees. Much of this co-ordination prompted informal and mutual capacity-building. In addition, there was exemplary co-ordination between the Mexican and Guatemalan offices and field staff that aided decision-making on the field level and the information given to refugees.

A programme to promote refugees' recovery of **personal documentation or identity papers** expanded upon UNHCR's earlier work in Central America and proved important to returnee protection and exercise of basic rights. The programme provided a model for other entities documenting Guatemalans who were not returnees and gleaned valuable experience that was incorporated into laws revising documentation procedures.

Strategies to promote **long-term reintegration** were an inadvertent result of the unexpectedly drawn-out UNHCR presence in Guatemala. The relative security of multi-year planning at the height of the operation meant that more ambitious activities could be undertaken in areas including land tenure, women's participation in community structures, legislation, medium-term productive projects, and promotion of development agencies involvement in returnee communities.

Despite the co-ordination efforts, UNHCR could have played a more active role in promoting and strengthening local capacity and further participation of governmental actors at all levels to ensure that **effective linkages** were in place from the arrival of the refugees and not only after phasing down.

Bibliography

Arbour, F. (1995) 'Out of a History of Silence, Guatemalan Refugee Women --in their own voices-- Reflections on Gender Awareness in the Guatemalan Refugee Return Process', CUSO occasional paper series, Ottawa, Canada.

Aguayo, S. (1985) *El Éxodo Centroamericano: Consecuencias de un Conflicto*. Secretaría de Educación Pública (SEP), Mexico City.

Aguilar Zinser, A. (1992) draft 'The International Conference on Central American Refugees: Promises, Realities and Perspectives, an Independent Report', Hemispheric Migration Project, Center for Immigration Policy and Refugee Assistance, Washington D.C.

AVANCSO (Asociación para el Avance de las Ciencias Sociales en Guatemala) (1992) *¿Dónde está el Futuro? Procesos de reintegración en comunidades de retornados*, Guatemala City.

Bonnifacio, A. and Lattimer, J. 'Policy and Methodological Framework for Quick Impact Projects (QIPs) as a means of facilitating durable solutions through integration.', UNHCR, Geneva.

CIAM (Centro de Investigación y Acción para la Mujer) and Mamá Maquín (1994) *De Refugiadas a Retornadas*, Mexico.

CIREFCA (International Conference on Central American Refugees) (1989) 'Plan de Acción Concertada', document *CIREFCA/89/13*. Guatemala City.

Comisiones Permanentes, UNHCR, CEAR et al (1999) *El Retorno de los Refugiados Guatemaltecos: experiencias de vida en el refugio, traslado y reasentamiento*.

Colom Caballeros, A. "El Proceso de Retorno como Contribución al Proceso de Paz," presentation for the Asociación de Investigación y Estudios Sociales (ASIES), September 1997.

Crisp, J. and Martin, L. (1992) 'Quick Impact Projects: A review of UNHCR's Returnee Reintegration Programme in Nicaragua', UNHCR, Geneva.

Fahlen, M. (1994) *Guatemala Reintegration Programme*, draft, UNHCR, Geneva.

Freyermuth Enciso, G. and R. Hernandez Castillo (eds). (1992) *Una década de refugio en Mexico: los refugiados guatemaltecos y los derechos humanos*, Mexico.

Guatemalan Government--CEAR (Comisión Nacional de Asistencia a Repatriados, Desplazados y Refugiados). Various annual and periodic reports, Guatemala City.

Instancia Mediadora/GRICAR (1999) *El Proceso de Retorno de los Refugiados Guatemaltecos: una visión desde la mesa de negociación*. Guatemala.

Manz, Beatriz (1988) *Repatriation and Return: An Arduous Process in Guatemala*. Washington DC: HMP/CIPRA.

Mexican Government, COMAR (Comisión Mexicana de Ayuda a Refugiados). Various annual and periodic reports. Mexico D.F.

MINUGUA (Misión de las Naciones Unidas de Guatemala). Various periodic reports.

NORAD and Sida (1997) "NORAD and Sida Evaluative review of the UNHCR-Guatemala repatriation programme" prepared by AGENDA Utredning & Utvikling AS, Norway. June 1997.

Otsea, J. (1997) *Building peace by strengthening local capacities: are UNHCR operations a help or a hindrance? For the UNHCR Consultation on the Study on Prevention and Promotion*, Geneva.

Plataforma del Acompañamiento Internacional (1997) "Un hilo más en el tejido de la paz: evaluación del acompañamiento internacional entre 1993 y 1997" Guatemala.

Spence, J. and D. Dye, P. Worby, C. de Leon (1998) "Promise and Reality: Implementation of the Guatemalan Peace Accords", *Hemisphere Initiatives*: Cambridge, Massachusetts.

Stein, B. (1991) The Actual and Desirable Link between Programmes of ad hoc assistance to return movements and long-term development programmes for the local areas where refugees return, Geneva, UNRISD.

Stein, B., Cuny, F. (1994) Refugee Repatriation During Conflict: Protection and Post-Return Assistance, Oxfam, Oxford, England.

Stein, B. (1994) Ad hoc assistance to return movements & long-term development programmes. When Refugees Go Home, UNRISD, Africa World Press, Trenton, New Jersey.

UNDP Guatemala, Guatemala: Los contrastes del desarrollo humano, edición 1998.

UNHCR (1991) Voluntary Repatriation of Guatemalan Refugees in Mexico: Plan of Action, Guatemala (Gua/HCR/91-189).

UNHCR (1994a) Returnee Aid and Development, Central Evaluation Section EVAL/RAD/15 based on a report by Barry Stein.

UNHCR (1994b) presentation for EXCOM.

UNHCR (1996) UNHCR Towards 2000, discussion paper, Geneva.

UNHCR, Division of International Protection (1996) UNHCR Handbook Voluntary Repatriation: International Protection, Geneva.

UNHCR, OCM Guatemala (1996) OCM's Strategic Plan for the Reintegration of Uprooted Populations in Priority Regions, Guatemala City.

UNHCR/Lozano, I. (1996) "Lessons learned in work with Refugee Women: a case study of Chiapas", UNHCR-Mexico, 1996.

UNHCR (1997) Review of UNHCR's Phase Out Strategies: Case studies in selected countries of origin. Restricted document.

UNHCR (1998) The problem of Land Ownership in Repatriation Operations. Restricted document.

UNHCR (1998) "OIOS Audit of UNHCR operations in Guatemala" Office of Internal Oversight Services, UNHCR Audit Section.

UNHCR (1998) Inspection Mission to Mexico, Guatemala and Cuba. A report to the High Commissioner from the Inspector. Inspection and Evaluation Service, March 1998. Draft, confidential.

UNHCR/Worby, P. (1998) "Organizing for a Change: Guatemalan Returnee Women Assert their Right to be co-owners of land allocated to Returnee Communities," Kigali, Rwanda.

UNHCR/Morel, T. (1998) "Mujeres Guatemaltecas Refugiadas y Retornadas: su participación en las estructuras comunitarias y los procesos de toma de decisiones." Guatemala.

UNHCR/Capacity Building Working Group (1999) A Practical Guide to Capacity Building as a feature of UNHCR's Humanitarian Programmes. Geneva, second draft.

UNHCR/CECI (1999) "Los proyectos de Impacto Rápido -PIR- en Guatemala:

Analisis Participativa y Lecciones Aprendidas. Informe del Taller, Febrero de 1999".


UNHCR, CEAR, CTEAR (1999 draft) "Documento de enlaces".

WOLA (Washington Office on Latin America) (1989) Uncertain Return: Refugees and Reconciliation in Guatemala. Washington D.C.

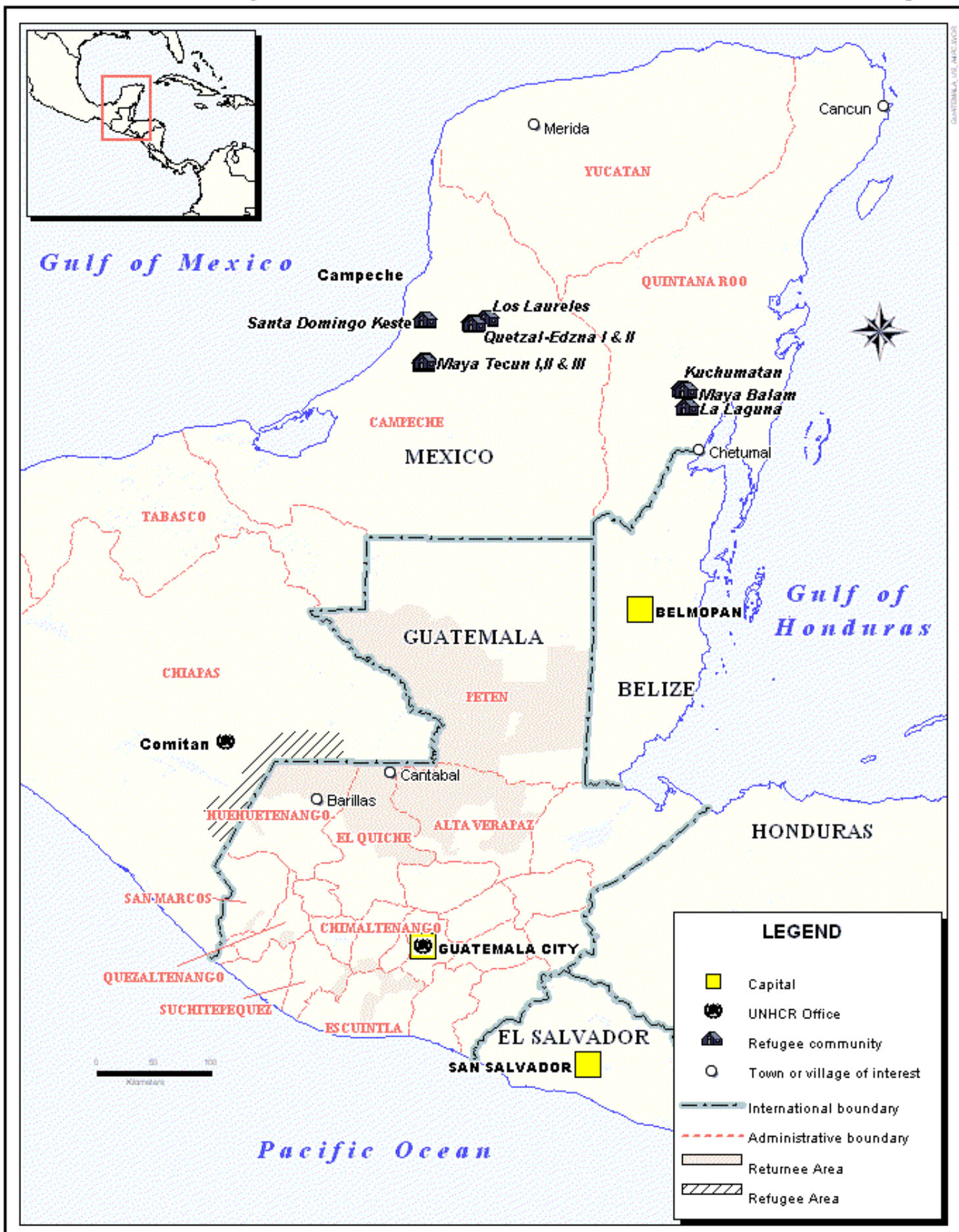
Annexes

Guatemala - Mexico

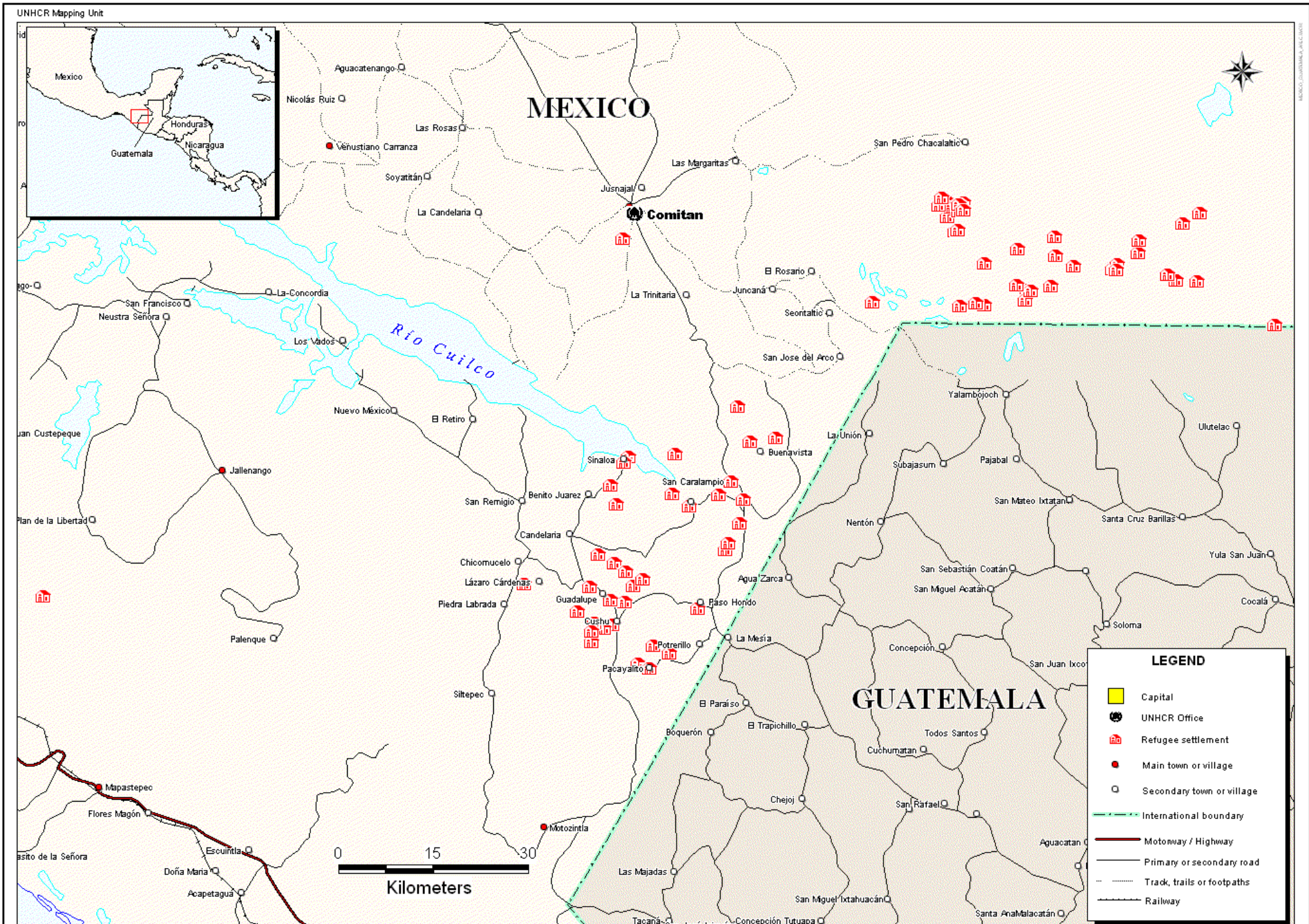
Returnee - Refugee areas

Annex 1a 

As of 4 January 2000



The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations.
Sources: UNHCR, Global Insight digital mapping - © 1998 Europa Technologies Ltd.
UNHCR Mapping Unit, Jan 2000



RETURNEE MAP

Annex 1c

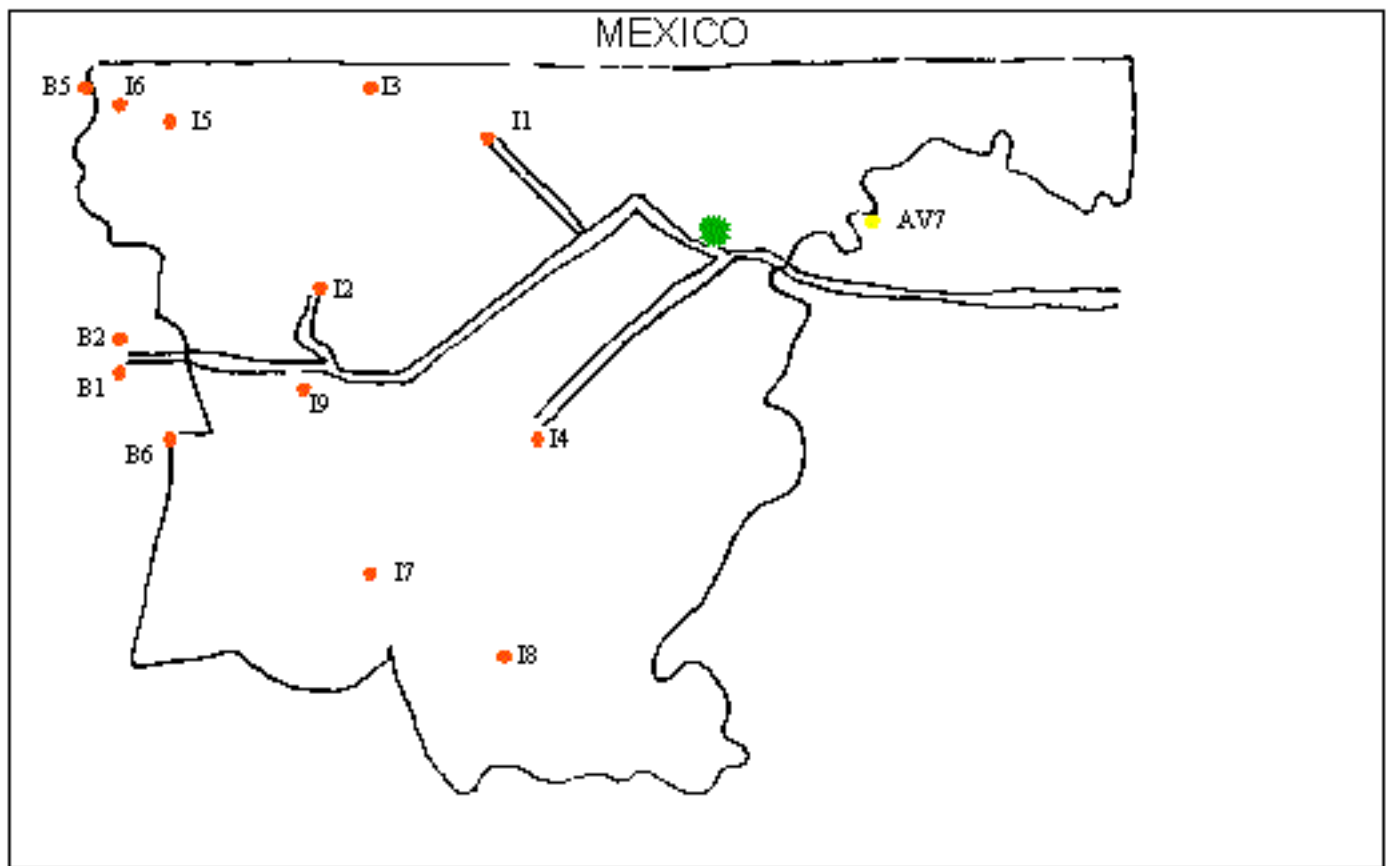


- Returnee Settlements established between 1993 and 1996
- Returnee Settlements established during 1997
- ★ Return Movements in 1998
- UNHCR Offices

Barillas closure date April 1998. Activities passed to Huehuetenango
 Cantabal closure date June 1998. Activities passed to Coban
 Peten closure date October 1998. Activities passed to Central Office
 Coban closure date October 1998. Activities passed to Central Office
 Huehuetenango closure date June 1999. Repatriation activities concludes



IXCAN



- Returnee Settlements established between 1993 and 1996
- Returnee Settlements established during 1997
- UNHCR Office

UBICACION DE COMUNIDADES DE RETORNADOS

Loc.	Comunidad	Municipalidad	Departamento	Fecha de Reasentamiento	Población Total	
					Familias	Personas
I	Ixcán					
I1	Victoria 20 de Enero	Ixcán	Quiché	Jan-93	260	1,250
I2	Pueblo Nuevo	Ixcán	Quiché	Mar-94	480	2,520
I3	Cuarto Pueblo	Ixcán	Quiché	Apr-94	280	1,460
I4	Santa María Tzejá	Ixcán	Quiché	May-94	150	1,120
I5	Los Angeles	Ixcán	Quiché	Aug-94	130	650
I6	Ixtahuacán Chiquito	Ixcán	Quiché	Aug-94	90	370
I7	San Juan Ixcán	Ixcán	Quiché	Jun-95	90	560
I8	Cimiento de la Esperanza	Ixcán	Quiché	Jul-95	60	310
I9	San Lorenzo	Ixcán	Quiché	Jan-96	90	430
				TOTAL	1,630	8,670
B	Región de Barillas					
B1	Mayalan	Barillas	Huehuetenango	Aug-94	330	1,680
B2	Zunil	Barillas	Huehuetenango	Aug-94	130	640
B3	Momonlac Montebello	Barillas	Huehuetenango	Feb-95	30	180
B4	San Marcos Malacatan	Barillas	Huehuetenango	Apr-95	15	65
B5	Fronterizo 10 de Mayo	Barillas	Huehuetenango	May-95	75	370
B6	Nueva Generación Maya	Barillas	Huehuetenango	Aug-95	400	2,040
B7	Nueva Unión Maya	Barillas	Huehuetenango	Nov-96	80	400
B8	Ixcansan	San Mateo Ixtatan	Huehuetenango	Dec-96	10	40
B9	El Triunfo/Chaquenalito	San Mateo Ixtatan	Huehuetenango	Sep-97	110	400
				TOTAL	1,180	5,815
AV	Alta Verapaz					
AV1	Yalpamech	Chisec	Alta Verapaz	Apr-91	190	1,520
AV2	Aurora 8 de Octubre	Chisec	Alta Verapaz	Oct-94	250	1,250
AV3	Nueva Libertad	Fray Bartolomé	Alta Verapaz	Nov-94	220	960
AV4	Copalaá	Cobán	Alta Verapaz	Sep-95	90	470
AV5	El Triunfo/Valle Río Oxec	Cahabon	Alta Verapaz	Apr-96	120	590
AV6	Reconciliación Balam	Fray Bartolomé	Alta Verapaz	Sep-96	130	680
AV7	Santa Elena 20 de Octubre	Cobán	Alta Verapaz	Mar-97	50	260
AV8	Samox	Cobán	Alta Verapaz	Jul-97	100	400
AV9	Sillab 3 y 4	Senahú	Alta Verapaz	Jul-98	50	250
				TOTAL	1,200	6,380
P	Petén					
P1	La Quetzal	La Libertad	Petén	Apr-95	225	1,060
P2	La Esmeralda	Dolores	Petén	Jul-95	210	1,060
P3	Entre Ríos	Sayaxché	Petén	May-96	70	290
P4	El Tombo	Sayaxché	Petén	May-96	60	290
P5	Santa Amelia	Poptun	Petén	Aug-96	130	600
P6	Huacutz	La Libertad	Petén	Sep-97	160	635
P7	Laguna Perdida	La Libertad	Petén	Mar-98	30	90
P8	San Martín	San Francisco	Petén	Jun-98	85	330
				TOTAL	970	4,355
N	Nentón y Región					
N1	Dos Ceibas	La Democracia	Huehuetenango	Feb-93	50	310
N2	Chacula	Nentón	Huehuetenango	Jan-94	200	1,000
N3	Pocobastic	Nentón	Huehuetenango	Oct-94	55	215
N4	El Quetzal	Nentón	Huehuetenango	Jun-98	200	1,000
				TOTAL	505	2,525
CS	Región de la Costa Sur					
CS1	Nuevo México	San Vicente Pacaya	Escuintla	Apr-94	80	400
CS2	La Lupita	Santo Domingo	Suchitepequez	Nov-94	120	600
CS3	El Corral	San Juan	Suchitepequez	Jul-97	100	400

CS	El Carmen	Palmar	Quintepéquez	Guatemala	1997	1998
CS4	Buenos Aires	Nuevo Progreso	San Marcos	Nov-97	55	300
CS5	San Vicente	San Vicente Pacay	Escuintla	Jul-98	75	300
CS6	San Rafael	San Vicente Pacay	Escuintla	Aug-98	70	175
CS7	La	Nuevo Progreso	San Marcos	Aug-98	50	150
CS8	La Trinidad	Escuintla	Escuintla	Oct-98	145	570
CS9	La Guardiania	Sn. Pedro Yepocapa	Chimaltenango	Nov-98	50	230
CS10	Las Delicias/Buena Esperanza	Palmar	Quetzaltenango	Sept-98 a Abr-99	63	282
CS11	Magnolia Miramar	Colomba	Quetzaltenango	Feb-99/Abr-99	61	308
Estas cifras incluyen estimados del total de población ubicada en comunidades retornadas hasta mayo'99. No constituyen estadísticas de repatriación				TOTAL	808	3,407
				GRAN TOTAL	6,293	31,152

Contributions for repatriation-reintegration of Guatemalan refugees from Mexico in US\$

Donor/Year	1992	1993	1994	1995	1996	1997	1998	1999	TOTAL
Norway ⁽¹⁾	300,000	1,202,599	1,521,817	1,880,996	2,147,239	1,139,601	870,147	337,136	9,399,535
Sweden ⁽¹⁾	1,166,667	2,289,215		2,017,906	2,095,044	1,052,632	644,536	168,840	9,434,840
European Commission	595,481	1,882,150	1,570,854	1,021,721	1,027,773				6,097,979
USA	975,000	500,000	500,000	1,500,000	1,700,000	1,000,000	2,000,000		8,175,000
Nippon Foundation (Ex-Sasakawa)			1,000,000	1,000,000	1,000,000				3,000,000
Japan		900,000		500,000	600,000	600,000	450,000	180,000	3,230,000
Canada	254,237	787,402	547,445	392,500		364,445	466,667	544,218	3,356,914
Denmark	381,283		209,340			1,043,220			1,633,843
Switzerland		1,026,377	378,788						1,405,165
España con ACNUR				493,302	395,683	117,238	40,430	8,791	1,055,444
Netherlands				448,718	409,357				858,075
France		173,913	175,131		100,000		43,458	81,786	574,288
UNDP						281,570			281,570
Finland		171,990	103,588						275,578
Spain					243,902				243,902
México				50,000	150,000		35,822		235,822
United Kingdom			111,940						111,940
Other Donors*		76			50,532		402,275		452,883
TOTAL	3,672,668	8,933,722	6,118,903	9,305,143	9,919,530	5,598,706	4,953,335	1,320,771	49,822,778

⁽¹⁾ Does not include contributions for secondment staff from the Norwegian Refugee Council and the Swedish Volunteer Service

*Breakdown of donors:

1996: Cyprus:US\$1,000; Deutsche Stiftung:US\$47,401; UK for UNHCR:US\$2,131

1998: Private USA:US\$2,000; JCRR (1995 CAF No.95-0946):US\$400,000; Private France:US\$175; Private Guatemala:US\$100.

Revision: 28 December 1999

Special Document

Guatemala

Agreement between the Government of Guatemala and the Permanent Commissions of Guatemalan Refugees in Mexico (CCPP) for the return of Guatemalan refugees

Government of the Republic of Guatemala,

Represented by the National Commission for the Attention of Repatriates, Refugees and Displaced (CEAR)

And the Permanent Commissions of Guatemalan Refugees in Mexico (CCPP)

Preliminary Note:

- The following Accords and their Verification are commitments made by the Government of Guatemala and the refugees who are members of the Permanent Commissions of Guatemalan Refugees in Mexico. All previous accords approved by the parties or others, agreed upon in other instances with government participation, which would be more favorable to the refugees or returnees, will have preeminence over the present accords. For the purpose of these Accords, the word "returnees" [retornados" as the masculine plural form] will be taken to mean both male returnees [retornados] and female returnees [retornadas].

As a point of reference in the Accords regarding the collective and organized return to Guatemala of those refugees represented by the Permanent Commissions, the parties recognize the following instruments, in effect in Guatemala.

- The Political Constitution of the Republic of Guatemala,
- The Universal Declaration of Human Rights,
- The International Pact of Civil and Political Rights,
- The International Pact of Economic, Social and Cultural Rights,
- The American Declaration of the Rights and Obligations of Man,
- The American Human Rights Convention,
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In addition are the following documents that inspire the present accords:

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And finally, the following documents, consulted in preparing the accords:

- The 1991-5 Resolution of the Sub-Commission for Preventing Discrimination and Protection of Minorities, of the United Nations Human Rights Commission,
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- The El Escorial Accord and the Declaration of Metepec,
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THE PARTIES AGREE:

FIRST: THE RETURN OF THE REFUGEES MUST BE A VOLUNTARY DECISION, EXPRESSED INDIVIDUALLY, CARRIED OUT IN A COLLECTIVE AND ORGANIZED FORM, IN CONDITIONS OF SECURITY AND DIGNITY.

A. The return of the refugees settled in Mexican territory must be collective and organized. The decision to return must be expressed freely and individually without external pressures. UNHCR will verify the voluntary and individual expression of the refugees who wish to return, taking into account the uses and customs of the indigenous communities.

B. A goal of the collective and organized return is the conservation and development of the wealth of experiences that the communities have accumulated during the years as refugees and the broadening of the security guarantees of returning individuals and communities. (The security of individuals and communities is defined in the fifth point of these accords).

C. The collective and organized return, regarding which the Permanent Commissions presented a Plan for Return during the Second Follow-Up Meeting of CIREFCA, will take place gradually, in the short term, programmed and organized by the Permanent Commissions, at the request of the refugee community, which will decide when, how and where the return will take place. The CCPP will present to UNHCR, CEAR, COMAR, and the rest of the organizations involved, an operative plan for the return, the implementation and execution of which will be coordinated between these organizations and the CCPP.

SECOND: RECOGNITION OF THE RIGHT TO FREE ASSOCIATION AND ORGANIZATION FOR RETURNEES.

A. The Guatemalan Government recognizes and respects the constitutional right of the returnee population to live and develop its culture and to organize freely in order to guarantee its economic, political, social, cultural, religious and ethnic participation as well as achieving an effective reintegration into Guatemalan society, without any limitations beyond those mandated by law.

B. The returnees will present to the corresponding entities their requests which will meet the legal requirements for obtaining legal status for all forms of organization. The Government of Guatemala will facilitate the paperwork for obtaining legal status, within the timeframe stipulated by law. In those cases in which no time limitations are legally established, the paperwork will be sped up in the respective agencies as much as possible.

C. The Government of Guatemala agrees that the returnees – as with the rest of the Guatemalan population – will not be obligated to associate with or form part of self-defense groups or similar associations, in keeping with article 34 of the Political Constitution of the Republic of Guatemala, and in accordance with the Fifth Accord of the Letter of Understanding signed by the United Nations High Commissioner for Refugees, Sadako Ogata, and the President of the Republic, Jorge Serrano Elias, on November 13, 1991, which is in line with the Government's

Unilateral Declaration, expressed in point 7.4 on Human Rights on July 8, 1992, in the context of the URNG negotiations.

D. Given the fact that the returnees have had to remain for many years outside of the national territory, it is indispensable that they be able to dedicate themselves exclusively to all of the activities that resettlement, reconstruction and reintegration imply. To assure this, the Executive will take the measures necessary so that the returnees will be exempt from military service during a period of three years, beginning with the date of their return. The date of return will be registered in a document to be handed out by CEAR in the reception center and must express this exception from military service. Once the three-year period is over, an evaluation will be made by the Verification committee, or an Ad Hoc Commission, agreed upon by all of the parties, in the event that the Verification committee is not in existence. The evaluation will corroborate to what degree the reintegration of the returnee population has been made effective, utilizing parameters agreed upon by the parties. In the event that the Verification committee or the commission considers that the process of reintegration has not been concluded, it will present to the Executive, for its consideration, a request for extending the time allowed for exemption from military service.

E. Once the period of exemption mentioned in point D has concluded, and in the event that the alternative of social service does not exist, the Government of Guatemala promises that military recruitment will take place in a non-discriminatory manner, without use of force, and in keeping with the law.

F. The Government of Guatemala will recognize in the public school system the formal studies undertaken by the refugees without the need of anything more than the document registering the student's level of studies provided by the directors or other supervisors in charge of the schools in Mexico. At the same time, equivalency tests will be given to establish the academic and professional qualifications resulting from informal studies or from field experience in areas such as education, health or technical skills such as education and health promoters, etc. These equivalencies will be provided within three months of the presentation of documentation to the respective authorities, extending the corresponding certification.

G. The Government of Guatemala will give instructions to the pertinent civilian and military authorities to assure that points C, D and E are complied with.

THIRD: ACCOMPANIMENT DURING THE RETURN

A. Accompaniment during the return is understood to include the physical presence of the Human

Rights Ombudsman, the UNHCR and GRICAR, in keeping with each of their mandates, as well as of international governmental and non-governmental organizations, national and foreign religious or lay organizations, and renowned individuals during the period of transfer, resettlement and reintegration of the returnees. The CCPP will present to the Verification Committee a list of the organizations and persons accompanying them during the return process, which will then be officially registered at CEAR.

B. Those national and international NGOs that lack legal status or formal agreements with the government, yet wish to accompany the returnees will have to sign in with CEAR providing a letter of support from some state entity or authorized organization in the country.

C. The Government of Guatemala will facilitate the stay of members of international organizations and foreign individuals.

FOURTH: FREEDOM OF MOVEMENT WITHIN THE COUNTRY AND FREEDOM TO ENTER AND LEAVE FOR THE RETURNEES AND MEMBERS OF THE PERMANENT COMMISSIONS.

A. The Government of Guatemala, in compliance with article 23 of the Political Constitution of Guatemala, guarantees all Guatemalans, including the returnees and members of the Permanent Commission, the freedom of movement both within the country as well as the right to enter and leave, without limitations other than those established by law. The government ratifies the contents of the third accord of the terms of reference included in the Letter of Understanding signed on November 13 by the United Nations High Commission for Refugees and the President of Guatemala Jorge Serrano, which states that the returnees: "can and will be able to choose freely without pressures the area where they wish to reside, either as individuals, as families or in a community or collectively."

B. In keeping with the commitment assumed by the Government of Guatemala, in Point A, the government agrees to speedily process the complete documentation of the returnees in the respective municipal registrars offices: this documentation will consist of: birth certificates, residency identification, registration of birth and provision of birth certificates for those children born while living as refugees. At the same time, facilities will be provided for domestic partners or foreign-born family members so that they will be able to reside legally in the country, in order to preserve family unity among the returnees.

C. The Government of Guatemala, through CEAR, will make known the procedures and the requisites necessary to obtain their documentation and that of nationally or foreign-born members of their families, so that they may directly deal with government agencies.

FIFTH: RIGHT TO LIFE AND COMMUNITY AND PERSONAL INTEGRITY

A. As is stipulated in articles 1, 2, 3 and 5 of the Political Constitution of the Republic of Guatemala, relative to the protection of individuals, the obligations of the State regarding security and integral development of individuals, the right to life and freedom of action, the Government of Guatemala agrees to comply strictly with such precepts, and to create and utilize all of the mechanisms necessary to guarantee protection, security, integrity and freedom for the returnees and their communities: these mechanisms will be made known to the returnees.

B. In keeping with article 4 of the Political Constitution of the Republic of Guatemala, which states: "in Guatemala, all human beings are free and equal in dignity and rights. Man and woman, regardless of their civil status, have equal opportunities and responsibilities (...)", and that which is considered in the second accord of the Letter of Understanding, signed by the United Nations High Commission for Refugees and the President of Guatemala Jorge Serrano Elias on November 13, 1991, the Government of Guatemala guarantees that the returnees will not suffer, nor will be the object of any form of discrimination, as a result of their having been refugees, in the exercise of their social, civil, political, cultural and economic rights. Also related to this last point is the guaranteeing of the freedom to buy and sell their goods, under the same conditions as the rest of Guatemalans, based on articles 39, 43 and 119, points 1 and 130, of the Political Constitution of the Republic of Guatemala.

C. Based on points A and B, and on the fact that the Government of Guatemala continues recognizing the civilian and pacific character of the return and of the returnee population, the government agrees to

make sure that during all stages of the return process, the regulations that the government establishes in relation to the returnees, are in keeping with the civil and pacific nature of this population.

D. It is understood that the security of the communities as described in point A, includes respect for the diverse forms of life, customs, traditions and social organization, under the protection of article 66 of the Political Constitution of the Republic of Guatemala as well as the autonomous and self-provided development expressed in article 66 of the Political Constitution of the Republic of Guatemala in reference to public power and municipal autonomy.

SIXTH: ACCESS TO LAND

In keeping with article 39 of the Political Constitution of the Republic of Guatemala, private property is an inherent human right. Everyone can freely dispose of their goods according to law. The Government of Guatemala guarantees the exercise of this right over the land and to that effect will create the conditions that facilitate this access.

A. RETURNEES WITH PROVISIONAL OR DEFINITIVE TITLES EXTENDED BY THE NATIONAL AGRARIAN TRANSFORMATION INSTITUTE (INTA) OR ANY OTHER STATE INSTITUTION.

1. The CCPP will present CEAR a photocopy of the provisional or definitive land titles held by refugees with 60 days notice in anticipation of their return.

2. CEAR, in accordance with this, will immediately remit the photocopies to INTA, which will conduct a legal study of the validity of the records as well as the verification in the field as to the present situation, within 15 to 30 days.

3. First case. If the legal and actual situation of the land has not varied, that is to say, the land is not occupied, CEAR will inform the returnee(s) that they can occupy the land immediately upon their return, a notification that must be made within three days after having received the information from INTA.

4. Second case. If the legal situation of the land has not changed, but is occupied by another person who does not have title, the case will be handled in the following manner:

a. The government will negotiate with the occupant to achieve their removal, [this negotiation] will take place within a period of 30 days.

b. If at the end of this period, the occupant has not left, the Government will notify the refugees or the interested returnees of the legal procedures to obtain possession, by means of evictions or other legal actions. The returnee can give copies of the legal measures taken to UNHCR and the Verification committee, in the event that legal action is taken to recover the land.

c. In case the returnee finds it too onerous to legally recover his property, a situation that will be determined by Verification committee, the title-holder will renounce his or her right to the land and the Government will supply other land financed through FONAPAZ or FONATIERRA.

5. Third case. If the legal situation has varied and there is a new occupant with title, but sufficient time had not elapsed for the prior owner to have lost ownership, the case will proceed in the following manner:

a. According to that established in number 4-a in point A.

b. After exhausting these efforts, the Government will inform the returnee of the administrative and judicial procedures to recuperate his/her rights. IN the event that legal actions are taken, the returnee will give copies of these actions to UNHCR and to the Verification committee.

c. In cases in which the refugee or the returnee renounces his/her right to exercise his/her property rights, the situation will proceed according to number 4-c in point A.

6. In cases where the previous owner has lost ownership of the land, the refugee will receive land from the Government, as set out in number 4-c in point A.

B. RETURNEES WITH REGISTERED DEEDS

1. At least 60 days prior to the return, the CCPP will present to CEAR a photocopy of the publicly registered deeds naming the refugees as owners of the property.

2. CEAR will immediately proceed to investigate the deed in the registry as well as in the countryside to determine the status of the land.

3. First case: If the field investigation and the deed search turn up no problem, the returnees will be informed that they can occupy their lands immediately.

4. Second case: If the refugee's land is occupied by other persons, the Government of Guatemala will negotiate with the occupants the terms for their departure, within a 30-day period. If the evacuation is not carried out, the refugees will be informed of their legal rights to recover their property from any occupant and they will be told of the legal actions to take in the court system. In the event that legal actions are taken, the returnee will give a copy of the legal proceedings to the UNHCR and the Verification committee. If the refugee finds that it is too onerous to press for their right to take possession, their land will be ceded to the nation and the government will grant the facilities contemplated in number 4-c in point A. The decision as to whether the conditions are onerous for the returnee will be made by the Verification committee.

C. ADULT RETURNEES WITHOUT LAND

1. Facilities to be granted.

1.1 The Government of Guatemala, through FONAPAZ, will grant soft credits to allow these returnees to directly buy the lands they solicit. To this effect, the CCPP and FONAPAZ will elaborate the respective regulations in which favorable conditions are established to grant credits to the beneficiaries.

1.2 The Guatemalan government by means of INTA will make available to the returnees those state-owned lands that are available or private lands acquired through FONATIERRA.

2. Form in which FONAPAZ credits will be managed.

If the beneficiaries wish, the granting and management of credits will take place through the very organizations of beneficiaries. Repayment will be made to the organizations of beneficiaries to be reinvested in benefit of the communities.

3. Production Plans.

The plans for production in the areas of settlement will be left up to the returnees and the NGOs of their choice.

4. State Services.

To facilitate the recuperation of credits, the Government of Guatemala, at the request of the CCPP and by means of the presentation of respective production plans indicated in the previous point, will supply the financial resources and the technical farm assistance indispensable for the exploitation of lands, in keeping with article 67 of the Political Constitution of the Republic of Guatemala, which expresses the special intention of the State of Guatemala to provide them with "(...) preferential credit and technical assistance that guarantee their possession and development (...)".

5. On-site identification of the land.

On-site identification of the future areas of settlement, prior to the purchase of lands, will be carried out

jointly by the parties. In every loan made for the purchase of lands, FONAPAZ will assure that the purchase is carried out in favor of the returnees requesting financing, either by way of immediate purchase, that is with the deed drawn up by a notary chosen by the returnees before the FONAPAZ delegate, or by means of a formal purchase agreement, signed by the land owner and the purchasing returnees.

6. The lands destined for returnee settlements, either through their own purchases or as state-owned properties, must be clearly surveyed, and the measurements must be already registered in the registry of property, or registration should be made.

7. The minimal extension of the properties should be set by the parties according to the quality, productivity, and location of the lands necessary to allow a family a dignified existence and the feasibility of covering the loan payments.

8. The Government of Guatemala, through FONAPAZ agrees to make available to the refugees the funds necessary for the purchase of lands, as described in 5-C, in a period of less than 60 days following the returnees' decision as to where they want to locate. The amount of the credits for the purchase of lands should be in accordance with the objectives mentioned in the previous paragraph.

9. In the cases in which the recuperation of the right to property is not possible, the credit policy elaborated by the CCPP and FONAPAZ will allow for the returnees to use the value of the lands as a collateral or down payment on the credits obtained.

D. RETURNEE COOPERATIVISTS

1. The Government of Guatemala, in compliance with that established in article 39 of the Political Constitution of the Republic of Guatemala, will respect the property rights of lands held in cooperatives, under the private property regime, as well as the relevant legal regulations, especially the Law of Cooperatives.

2. First case: if the refugee or returnee is an associate in a cooperative and his land is found unoccupied, he will be able to take possession in accordance with the statutes of the Cooperative.

3. Second case: if the lands are occupied by a person who is not a member of the cooperative, the government will assist the cooperative, by way of INACOP, in order to achieve the removal of the occupant from the lands.

4. Third case: if the lands are occupied by members or the Administrative Council rejects the returnee's request to re-enter the cooperative or to re-occupy the farm land and homesite, the government will facilitate the dialogue between refugee members and those members who are residents in Guatemala in order to settle the problem. If the lands are in fact insufficient to sustain all of the members, the government will facilitate the purchase of new lands for the cooperative through FONAPAZ and FONATIERRA.

5. Fourth case: if the returnee member gives up his or her membership with the cooperative, the procedure will follow that established in 4-c, section A.

E. RETURNEES WHO POSSESSED MUNICIPAL LANDS

1. The CCPP will present to CEAR 60 days before the return information regarding the municipal lands possessed by the returnees; this information should indicate: the municipality that granted possession of the lands, the date, and the extension of the same.

2. With this information, CEAR and the CCPP will visit the respective municipalities to determine the possibility of newly obtaining the possession of lands in favor of the returnees. CEAR will provide the respective report to the refugee or returnee in a period of between 15 and 30 days following the receipt of the information described in point 1 of this section.

3. If the land is available, authorization will be requested from the respective mayor or municipality and

the refugee or returnee will be assisted in the paperwork necessary in order to take immediate possession.

4. If the lands cannot be recovered, the procedure should be followed according to number 4-c of point A.

F. RECOGNITION AND GRANTING OF PROPERTY TITLES.

1. The Government of Guatemala recognizes and respects the right of those returnees who at the moment of their departure held property titles.
2. In the event that the returnees do not have in their possession the respective documents showing their ownership, the ownership will be established by reviewing the archives of INTA or of other municipal and state agencies, as well as by the certifications in the property registrar's office.
3. When nationally owned lands are involved, the Government of Guatemala, by way of INTA, guarantees that once the interested party has shown his right to be benefited according to article 104 of Decree 1551, the Law of Agrarian Transformation, and that the party is in full possession of his parcel and has effected partial payment, the property titles will be extended within six months following the legal establishment of ownership.
4. The acquisition of land ownership will be immediate if it has been financed with credits from FONAPAZ.

SEVENTH: MEDIATION, FOLLOW-UP AND VERIFICATION

A. MEDIATION AND FOLLOW-UP

1. The Government of the Republic of Guatemala, represented by CEAR, and the Permanent Commissions manifest their will to maintain open dialogue with the goal of resolving problems or differences that may arise during the [phases of the] return process: movement, settlement and reintegration.
2. The parties agree that the Mediating Group, as it is currently constituted, continue in its mission to mediate, through its good offices, reconciliation, conflict prevention, guidance and follow-up that facilitates dialogue between the parties and carries out measures to implement these Accords and those which may be agreed to by the parties in the future.

The Mediating Group, will serve in this sense as the priority forum of the parties to resolve via dialogue all problems or differences to the extent that these have not been resolved locally or through direct dialogue between the parties.

The parties recognize that these functions will be carried out without effecting the work of each member [institution] in regard to its respective mandate.

3. The parties recommend to all those interested or involved in the return to channel or direct their observations or suggestions to the Mediating Group, so that the latter may resolve the matters indicated.
4. The Mediating Group will determine how to carry out those activities it deems pertinent in order to comply with its responsibilities.
5. The Mediating Group will convene the parties to meetings at least once a month or at the request of either.
6. Both parties are in agreement that it is necessary that UNHCR and CEAR supply support services, guidance and the logistics necessary in the different phases of the return.
7. The parties request that the members of the International Group of Support and Consultation for the

Return, GRICAR (composed of one representative of each of the Canadian, French, Mexican and Swedish embassies as well as a representative of the International Council of Voluntary Agencies – ICVA – and the World Council of Churches) attend, with voice, the meetings convened by the Mediating Group with the parties, to act as witnesses of honor to the deliberations and to be an organ for consultation and good offices.

B. VERIFICATION

1. Verification means the confirmation of timely and/or overall compliance of these Accords and those which may be agreed to by the parties in the future.

2. The Verification Group will be composed of:

– The Human Rights Ombudsman

– A representative of the Guatemala Episcopal [Catholic Bishops'] Conference

– A representative of the United Nations with the authority of emit periodic and annual reports or, with the same faculties, the United Nations Human Rights Independent Expert [appointed to Guatemala] Professor C. Tomuschat or the person that he designates to carry out these functions.

3. The parties express gratification upon learning on October 6, 1992, of the United Nations Human Rights Independent Expert's intention to follow closely, personally or through his delegated representative, the process of return and reintegration within the mandate given him by the United Nations Human Rights Commission, and to include in his reports to this entity specific chapters covering the return. For this reason, the parties agree to petition him to facilitate the initial conformation of the Verification Group as soon as possible.

The parties may broaden the membership of the Verification Group.

4. The Verification Group will particularly defend the respect of the civilian nature of the return population in accordance with the fifth point [above].

5. The Verification Group will carry out its work in the way that it deems pertinent in order to comply with its functions.

6. The Verification Group will decide in what format and how often to make public its reports.

7. The Verification Group will work for satisfactory compliance of the accords, in the sense that the party responsible for lack of compliance will be called upon to respond and undertake corrective measures in a time period in accordance with the nature of the agreement left unfulfilled and the urgency of the case at hand. If the lack of compliance is related to fundamental rights such as: life, liberty and physical integrity or of the security of persons, immediate restitution of the exercise of the right should be demanded.

8. The parties request the members of GRICAR to be available to the Verification Group for the consultation that the latter deems pertinent.

Guatemala

October 8, 1992

Signing Parties:

In representation of the Government of the Republic of Guatemala. The National Commission for the Attention of Repatriates, Refugees and Displaced CEAR

The Permanent Commissions

The Mediating Group

Members of GRICAR, witnesses to the negotiation process

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Agreement between the Government of Guatemala and the Permanent Commissions of Guatemalan Refugees in Mexico (CCPP) for the return of Guatemalan refugees

Government of the Republic of Guatemala,

Represented by the National Commission for the Attention of Repatriates, Refugees and Displaced (CEAR)

And the Permanent Commissions of Guatemalan Refugees in Mexico (CCPP)

Preliminary Note:

- The following Accords and their Verification are commitments made by the Government of Guatemala and the refugees who are members of the Permanent Commissions of Guatemalan Refugees in Mexico. All previous accords approved by the parties or others, agreed upon in other instances with government participation, which would be more favorable to the refugees or returnees, will have preeminence over the present accords. For the purpose of these Accords, the word "returnees" [retornados" as the masculine plural form] will be taken to mean both male returnees [retornados] and female returnees [retornadas].

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C. The collective and organized return, regarding which the Permanent Commissions presented a Plan for Return during the Second Follow-Up Meeting of CIREFCA, will take place gradually, in the short term, programmed and organized by the Permanent Commissions, at the request of the refugee community, which will decide when, how and where the return will take place. The CCPP will present to UNHCR, CEAR, COMAR, and the rest of the organizations involved, an operative plan for the return, the implementation and

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A. The Guatemalan Government recognizes and respects the constitutional right of the returnee population to live and develop its culture and to organize freely in order to guarantee its economic, political, social, cultural, religious and ethnic participation as well as achieving an effective reintegration into Guatemalan society, without any limitations beyond those mandated by law.

B. The returnees will present to the corresponding entities their requests which will meet the legal requirements for obtaining legal status for all forms of organization. The Government of Guatemala will facilitate the paperwork for obtaining legal status, within the timeframe stipulated by law. In those cases in which no time limitations are legally established, the paperwork will be sped up in the respective agencies as much as possible.

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Unilateral Declaration, expressed in point 7.4 on Human Rights on July 8, 1992, in the context of the URNG negotiations.

D. Given the fact that the returnees have had to remain for many years outside of the national territory, it is indispensable that they be able to dedicate themselves exclusively to all of the activities that resettlement, reconstruction and reintegration imply. To assure this, the Executive will take the measures necessary so that the returnees will be exempt from military service during a period of three years, beginning with the date of their return. The date of return will be registered in a document to be handed out by CEAR in the reception center and must express this exception from military service. Once the three-year period is over, an evaluation will be made by the Verification committee, or an Ad Hoc Commission, agreed upon by all of the parties, in the event that the Verification committee is not in existence. The evaluation will corroborate to what degree the reintegration of the returnee population has been made effective, utilizing parameters agreed upon by the parties. In the event that the Verification committee or the commission considers that the process of reintegration has not been concluded, it will present to the Executive, for its consideration, a request for extending the time allowed for exemption from military service.

E. Once the period of exemption mentioned in point D has concluded, and in the event that the alternative of social service does not exist, the Government of Guatemala promises that military recruitment will take place in a non-discriminatory manner, without use of force, and in keeping with the law.

F. The Government of Guatemala will recognize in the public school system the formal studies undertaken by the refugees without the need of anything more than the document registering the student's level of studies provided by the directors or other supervisors in charge of the schools in Mexico. At the same time, equivalency tests will be given to establish the academic and professional

qualifications resulting from informal studies or from field experience in areas such as education, health or technical skills such as education and health promoters, etc. These equivalencies will be provided within three months of the presentation of documentation to the respective authorities, extending the corresponding certification.

G. The Government of Guatemala will give instructions to the pertinent civilian and military authorities to assure that points C, D and E are complied with.

THIRD: ACCOMPANIMENT DURING THE RETURN

A. Accompaniment during the return is understood to include the physical presence of the Human Rights Ombudsman, the UNHCR and GRICAR, in keeping with each of their mandates, as well as of international governmental and non-governmental organizations, national and foreign religious or lay organizations, and renowned individuals during the period of transfer, resettlement and reintegration of the returnees. The CCPP will present to the Verification Committee a list of the organizations and persons accompanying them during the return process, which will then be officially registered at CEAR.

B. Those national and international NGOs that lack legal status or formal agreements with the government, yet wish to accompany the returnees will have to sign in with CEAR providing a letter of support from some state entity or authorized organization in the country.

C. The Government of Guatemala will facilitate the stay of members of international organizations and foreign individuals.

FOURTH: FREEDOM OF MOVEMENT WITHIN THE COUNTRY AND FREEDOM TO ENTER AND LEAVE FOR THE RETURNEES AND MEMBERS OF THE PERMANENT COMMISSIONS.

A. The Government of Guatemala, in compliance with article 23 of the Political Constitution of Guatemala, guarantees all Guatemalans, including the returnees and members of the Permanent Commission, the freedom of movement both within the country as well as the right to enter and leave, without limitations other than those established by law. The government ratifies the contents of the third accord of the terms of reference included in the Letter of Understanding signed on November 13 by the United Nations High Commission for Refugees and the President of Guatemala Jorge Serrano, which states that the returnees: "can and will be able to choose freely without pressures the area where they wish to reside, either as individuals, as families or in a community or collectively."

B. In keeping with the commitment assumed by the Government of Guatemala, in Point A, the government agrees to speedily process the complete documentation of the returnees in the respective municipal registrars offices: this documentation will consist of: birth certificates, residency identification, registration of birth and provision of birth certificates for those children born while living as refugees. At the same time, facilities will be provided for domestic partners or foreign-born family members so that they will be able to reside legally in the country, in order to preserve family unity among the returnees.

C. The Government of Guatemala, through CEAR, will make known the procedures and the requisites necessary to obtain their documentation and that of nationally or foreign-born members of their families, so that they may directly deal with government agencies.

FIFTH: RIGHT TO LIFE AND COMMUNITY AND PERSONAL INTEGRITY

A. As is stipulated in articles 1, 2, 3 and 5 of the Political Constitution of the Republic of Guatemala, relative to the protection of individuals, the obligations of the State regarding security and integral development of individuals, the right to life and freedom of action, the Government of Guatemala agrees to comply strictly with such precepts, and to create and utilize all of the mechanisms necessary to guarantee protection, security, integrity and freedom for the returnees and their communities: these mechanisms will be made known to the returnees.

B. In keeping with article 4 of the Political Constitution of the Republic of Guatemala, which states: "in Guatemala, all human beings are free and equal in dignity and rights. Man and woman, regardless of their civil status, have equal opportunities and responsibilities (...)", and that which is considered in the second accord of the Letter of Understanding, signed by the United Nations High Commission for Refugees and the President of Guatemala Jorge Serrano Elias on November 13, 1991, the Government of Guatemala guarantees that the returnees will not suffer, nor will be the object of any form of discrimination, as a result of their having been refugees, in the exercise of their social, civil, political, cultural and economic rights. Also related to this last point is the guaranteeing of the freedom to buy and sell their goods, under the same conditions as the rest of Guatemalans, based on articles 39, 43 and 119, points 1 and 130, of the Political Constitution of the Republic of Guatemala.

C. Based on points A and B, and on the fact that the Government of Guatemala continues recognizing the civilian and pacific character of the return and of the returnee population, the government agrees to make sure that during all stages of the return process, the regulations that the government establishes in relation to the returnees, are in keeping with the civil and pacific nature of this population.

D. It is understood that the security of the communities as described in point A, includes respect for the diverse forms of life, customs, traditions and social organization, under the protection of article 66 of the Political Constitution of the Republic of Guatemala as well as the autonomous and self-provided development expressed in article 66 of the Political Constitution of the Republic of Guatemala in reference to public power and municipal autonomy.

SIXTH: ACCESS TO LAND

In keeping with article 39 of the Political Constitution of the Republic of Guatemala, private property is an inherent human right. Everyone can freely dispose of their goods according to law. The Government of Guatemala guarantees the exercise of this right over the land and to that effect will create the conditions that facilitate this access.

A. RETURNEES WITH PROVISIONAL OR DEFINITIVE TITLES EXTENDED BY THE NATIONAL AGRARIAN TRANSFORMATION INSTITUTE (INTA) OR ANY OTHER STATE INSTITUTION.

1. The CCPP will present CEAR a photocopy of the provisional or definitive land titles held by refugees with 60 days notice in anticipation of their return.
2. CEAR, in accordance with this, will immediately remit the photocopies to INTA, which will conduct a legal study of the validity of the records as well as the verification in the field as to the present situation, within 15 to 30 days.
3. First case. If the legal and actual situation of the land has not varied, that is to say, the land is not occupied, CEAR will inform the returnee(s) that they can occupy the land immediately upon their return, a notification that must be made

within three days after having received the information from INTA.

4. Second case. If the legal situation of the land has not changed, but is occupied by another person who does not have title, the case will be handled in the following manner:

a. The government will negotiate with the occupant to achieve their removal, [this negotiation] will take place within a period of 30 days.

b. If at the end of this period, the occupant has not left, the Government will notify the refugees or the interested returnees of the legal procedures to obtain possession, by means of evictions or other legal actions. The returnee can give copies of the legal measures taken to UNHCR and the Verification committee, in the event that legal action is taken to recover the land.

c. In case the returnee finds it too onerous to legally recover his property, a situation that will be determined by Verification committee, the title-holder will renounce his or her right to the land and the Government will supply other land financed through FONAPAZ or FONATIERRA.

5. Third case. If the legal situation has varied and there is a new occupant with title, but sufficient time had not elapsed for the prior owner to have lost ownership, the case will proceed in the following manner:

a. According to that established in number 4-a in point A.

b. After exhausting these efforts, the Government will inform the returnee of the administrative and judicial procedures to recuperate his/her rights. IN the event that legal actions are taken, the returnee will give copies of these actions to UNHCR and to the Verification committee.

c. In cases in which the refugee or the returnee renounces his/her right to exercise his/her property rights, the situation will proceed according to number 4-c in point A.

6. In cases where the previous owner has lost ownership of the land, the refugee will receive land from the Government, as set out in number 4-c in point A.

B. RETURNEES WITH REGISTERED DEEDS

1. At least 60 days prior to the return, the CCPP will present to CEAR a photocopy of the publicly registered deeds naming the refugees as owners of the property.

2. CEAR will immediately proceed to investigate the deed in the registry as well as in the countryside to determine the status of the land.

3. First case: If the field investigation and the deed search turn up no problem, the returnees will be informed that they can occupy their lands immediate.

4. Second case: If the refugee's land is occupied by other persons, the Government of Guatemala will negotiate with the occupants the terms for their departure, within a 30-day period. If the evacuation is not carried out, the refugees will be informed of their legal rights to recover their property from any occupant and they will be told of the legal actions to take in the court system. In the event that legal actions are taken, the returnee will give a copy of the legal proceedings to the UNHCR and the Verification committee. If the refugee finds that it is too onerous to press for their right to take possession, their land will be ceded to the nation and the government will grant the facilities contemplated in

number 4-c in point A. The decision as to whether the conditions are onerous for the returnee will be made by the Verification committee.

C. ADULT RETURNEES WITHOUT LAND

1. Facilities to be granted.

1.1 The Government of Guatemala, through FONAPAZ, will grant soft credits to allow these returnees to directly buy the lands they solicit. To this effect, the CCPP and FONAPAZ will elaborate the respective regulations in which favorable conditions are established to grant credits to the beneficiaries.

1.2 The Guatemalan government by means of INTA will make available to the returnees those state-owned lands that are available or private lands acquired through FONATIERRA.

2. Form in which FONAPAZ credits will be managed.

If the beneficiaries wish, the granting and management of credits will take place through the very organizations of beneficiaries. Repayment will be made to the organizations of beneficiaries to be reinvested in benefit of the communities.

3. Production Plans.

The plans for production in the areas of settlement will be left up to the returnees and the NGOs of their choice.

4. State Services.

To facilitate the recuperation of credits, the Government of Guatemala, at the request of the CCPP and by means of the presentation of respective production plans indicated in the previous point, will supply the financial resources and the technical farm assistance indispensable for the exploitation of lands, in keeping with article 67 of the Political Constitution of the Republic of Guatemala, which expresses the special intention of the State of Guatemala to provide them with "(...) preferential credit and technical assistance that guarantee their possession and development (...)".

5. On-site identification of the land.

On-site identification of the future areas of settlement, prior to the purchase of lands, will be carried out jointly by the parties. In every loan made for the purchase of lands, FONAPAZ will assure that the purchase is carried out in favor of the returnees requesting financing, either by way of immediate purchase, that is with the deed drawn up by a notary chosen by the returnees before the FONAPAZ delegate, or by means of a formal purchase agreement, signed by the land owner and the purchasing returnees.

6. The lands destined for returnee settlements, either through their own purchases or as state-owned properties, must be clearly surveyed, and the measurements must be already registered in the registry of property, or registration should be made.

7. The minimal extension of the properties should be set by the parties according to the quality, productivity, and location of the lands necessary to allow a family a dignified existence and the feasibility of covering the loan payments.

8. The Government of Guatemala, through FONAPAZ agrees to make available to the refugees the funds necessary for the purchase of lands, as described in

5-C, in a period of less than 60 days following the returnees' decision as to where they want to locate. The amount of the credits for the purchase of lands should be in accordance with the objectives mentioned in the previous paragraph.

9. In the cases in which the recuperation of the right to property is not possible, the credit policy elaborated by the CCPP and FONAPAZ will allow for the returnees to use the value of the lands as a collateral or down payment on the credits obtained.

D. RETURNEE COOPERATIVISTS

1. The Government of Guatemala, in compliance with that established in article 39 of the Political Constitution of the Republic of Guatemala, will respect the property rights of lands held in cooperatives, under the private property regime, as well as the relevant legal regulations, especially the Law of Cooperatives.

2. First case: if the refugee or returnee is an associate in a cooperative and his land is found unoccupied, he will be able to take possession in accordance with the statutes of the Cooperative.

3. Second case: if the lands are occupied by a person who is not a member of the cooperative, the government will assist the cooperative, by way of INACOP, in order to achieve the removal of the occupant from the lands.

4. Third case: if the lands are occupied by members or the Administrative Council rejects the returnee's request to re-enter the cooperative or to re-occupy the farm land and homesite, the government will facilitate the dialogue between refugee members and those members who are residents in Guatemala in order to settle the problem. If the lands are in fact insufficient to sustain all of the members, the government will facilitate the purchase of new lands for the cooperative through FONAPAZ and FONATIERRA.

5. Fourth case: if the returnee member gives up his or her membership with the cooperative, the procedure will follow that established in 4-c, section A.

E. RETURNEES WHO POSSESSED MUNICIPAL LANDS

1. The CCPP will present to CEAR 60 days before the return information regarding the municipal lands possessed by the returnees; this information should indicate: the municipality that granted possession of the lands, the date, and the extension of the same.

2. With this information, CEAR and the CCPP will visit the respective municipalities to determine the possibility of newly obtaining the possession of lands in favor of the returnees. CEAR will provide the respective report to the refugee or returnee in a period of between 15 and 30 days following the receipt of the information described in point 1 of this section.

3. If the land is available, authorization will be requested from the respective mayor or municipality and the refugee or returnee will be assisted in the paperwork necessary in order to take immediate possession.

4. If the lands cannot be recovered, the procedure should be followed according to number 4-c of point A.

F. RECOGNITION AND GRANTING OF PROPERTY TITLES.

1. The Government of Guatemala recognizes and respects the right of those returnees who at the moment of their departure held property titles.

2. In the event that the returnees do not have in their possession the respective documents showing their ownership, the ownership will be established by reviewing the archives of INTA or of other municipal and state agencies, as well as by the certifications in the property registrar's office.

3. When nationally owned lands are involved, the Government of Guatemala, by way of INTA, guarantees that once the interested party has shown his right to be benefited according to article 104 of Decree 1551, the Law of Agrarian Transformation, and that the party is in full possession of his parcel and has effected partial payment, the property titles will be extended within six months following the legal establishment of ownership.

4. The acquisition of land ownership will be immediate if it has been financed with credits from FONAPAZ.

SEVENTH: MEDIATION, FOLLOW-UP AND VERIFICATION

A. MEDIATION AND FOLLOW-UP

1. The Government of the Republic of Guatemala, represented by CEAR, and the Permanent Commissions manifest their will to maintain open dialogue with the goal of resolving problems or differences that may arise during the [phases of the] return process: movement, settlement and reintegration.

2. The parties agree that the Mediating Group, as it is currently constituted, continue in its mission to mediate, through its good offices, reconciliation, conflict prevention, guidance and follow-up that facilitates dialogue between the parties and carries out measures to implement these Accords and those which may be agreed to by the parties in the future.

The Mediating Group, will serve in this sense as the priority forum of the parties to resolve via dialogue all problems or differences to the extent that these have not been resolved locally or through direct dialogue between the parties.

The parties recognize that these functions will be carried out without effecting the work of each member [institution] in regard to its respective mandate.

3. The parties recommend to all those interested or involved in the return to channel or direct their observations or suggestions to the Mediating Group, so that the latter may resolve the matters indicated.

4. The Mediating Group will determine how to carry out those activities it deems pertinent in order to comply with its responsibilities.

5. The Mediating Group will convene the parties to meetings at least once a month or at the request of either.

6. Both parties are in agreement that it is necessary that UNHCR and CEAR supply support services, guidance and the logistics necessary in the different phases of the return.

7. The parties request that the members of the International Group of Support and Consultation for the Return, GRICAR (composed of one representative of each of the Canadian, French, Mexican and Swedish embassies as well as a representative of the International Council of Voluntary Agencies – ICVA – and the World Council of Churches) attend, with voice, the meetings convened by the Mediating Group with the parties, to act as witnesses of honor to the deliberations and to be an organ for consultation and good offices.

B. VERIFICATION

1. Verification means the confirmation of timely and/or overall compliance of these Accords and those which may be agreed to by the parties in the future.

2. The Verification Group will be composed of:

- The Human Rights Ombudsman
- A representative of the Guatemala Episcopal [Catholic Bishops'] Conference
- A representative of the United Nations with the authority of emit periodic and annual reports or, with the same faculties, the United Nations Human Rights Independent Expert [appointed to Guatemala] Professor C. Tomuschat or the person that he designates to carry out these functions.

3. The parties express gratification upon learning on October 6, 1992, of the United Nations Human Rights Independent Expert's intention to follow closely, personally or through his delegated representative, the process of return and reintegration within the mandate given him by the United Nations Human Rights Commission, and to include in his reports to this entity specific chapters covering the return. For this reason, the parties agree to petition him to facilitate the initial conformation of the Verification Group as soon as possible.

The parties may broaden the membership of the Verification Group.

4. The Verification Group will particularly defend the respect of the civilian nature of the return population in accordance with the fifth point [above].

5. The Verification Group will carry out its work in the way that it deems pertinent in order to comply with its functions.

6. The Verification Group will decide in what format and how often to make public its reports.

7. The Verification Group will work for satisfactory compliance of the accords, in the sense that the party responsible for lack of compliance will be called upon to respond and undertake corrective measures in a time period in accordance with the nature of the agreement left unfulfilled and the urgency of the case at hand. If the lack of compliance is related to fundamental rights such as: life, liberty and physical integrity or of the security of persons, immediate restitution of the exercise of the right should be demanded.

8. The parties request the members of GRICAR to be available to the Verification Group for the consultation that the latter deems pertinent.

Guatemala

October 8, 1992

Signing Parties:

In representation of the Government of the Republic of Guatemala. The National Commission for the Attention of Repatriates, Refugees and Displaced CEAR

The Permanent Commissions

The Mediating Group

Members of GRICAR, witnesses to the negotiation process

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